

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

7975. By Mr. BEERS: Petition from citizens of Perry County, Pa., favoring the passage of House bill 11410; to the Committee on the Judiciary.

7976. By Mr. CULLEN: Resolution presented at annual meeting of the board of trustees of the American Printing House for the Blind, expressing the appreciation of the generous attitude of Congress toward the blind pupils in the schools in this country; to the Committee on Appropriations.

7977. By Mr. GARBER: Petition of the Dewey Congressional Medal Men's Association, urging support of House bill 12247 and Senate bill 1265, proposing a reward of \$30 per month to the few surviving officers and enlisted men who served with Commodore George Dewey at his famous victory in Manila Bay; to the Committee on Pensions.

7978. Also, letter from F. D. Fant, chairman traffic department, United States Fisheries Association, Jacksonville, Fla., urging support of House Resolution 303; to the Committee on Interstate and Foreign Commerce.

7979. By Mr. MORROW: Petition of New Mexico Cattle and Horse Growers' Association, opposing further grants of public lands within State of New Mexico to Indians or Indian tribes, unless lands so granted to Indians or Indian tribes be put on the State tax rolls; to the Committee on Indian Affairs.

7980. Also, petition of New Mexico Cattle and Horse Growers' Association, indorsing and recommending the leasing of the public domain in New Mexico; to the Committee on the Public Lands.

7981. Also, petition of New Mexico Cattle and Horse Growers' Association, favoring the purchase of isolated tracts of Government lands for grazing purposes, minimum price at which such tracts of land, grazing in character, to be 50 cents per acre; to the Committee on the Public Lands.

7982. Also, petition of New Mexico Cattle and Horse Growers' Association, expressing appreciation for services rendered beef-cattle producers by Department of Agriculture, the National Live Stock and Meat Board, and the Better Beef Association, and favoring increase of 25 cents per car on all cattle sold, the funds to be used by the National Meat Board for increased advertising; to the Committee on Agriculture.

7983. Also, petition of New Mexico Cattle and Horse Growers' Association, urging increased appropriation for salary of Chief of Bureau of Animal Industry, and asking sufficient funds for the study and control of livestock diseases and pests; to the Committee on Agriculture.

7984. Also, petition of New Mexico Cattle and Horse Growers' Association, urging increased appropriation to the Forest Service for improvements upon the grazing lands in the national forests; to the Committee on Agriculture.

7985. Also, petition of New Mexico Cattle and Horse Growers' Association, urging increased appropriation for the Bureau of Biological Survey for control of predatory animals; to the Committee on Agriculture.

7986. Also, petition of New Mexico Cattle and Horse Growers' Association, indorsing House bill 10021, by Mr. Morrow, providing for the establishment of an experiment station in Lea County, N. Mex.; to the Committee on Agriculture.

7987. Also, petition of New Mexico Cattle and Horse Growers' Association, opposing the putting of Mexican labor on quota basis; to the Committee on Immigration.

7988. Also, petition of New Mexico Cattle and Horse Growers' Association, favoring duty on hides; to the Committee on Ways and Means.

7989. Also, petition of New Mexico Cattle and Horse Growers' Association, approving an advance in tariff on beef products; to the Committee on Ways and Means.

7990. Also, petition of New Mexico Cattle and Horse Growers' Association, opposing Senate bill 4264, restricting the sale of livestock to places designated by the Secretary of Agriculture; to the Committee on Agriculture.

7991. Also, petition of New Mexico Cattle and Horse Growers' Association, approving House bill 490, to amend the packers and stockyard act; to the Committee on Agriculture.

7992. By Mr. O'CONNELL: Petition of the Immigration Study Commission, Sacramento, Calif., opposing the repeal of the national-origins clause of the immigration quota act; to the Committee on Immigration and Naturalization.

7993. Also, petition of the Cigarmakers Local Union No. 87, Glendale, Brooklyn, N. Y., opposing the passage of the Cuban parcel post bill (H. R. 9195); to the Committee on Ways and Means.

7994. By Mr. ROBINSON of Iowa: Petition of R. V. McKeever, Otley, Iowa, and O. M. Wilson, Monroe, Iowa, drug-

gists, in support of the Capper-Kelley resale price bill (H. R. 11); to the Committee on Interstate and Foreign Commerce.

7995. Also, petition of druggists and other business men of Bloomfield, Iowa, submitted by J. M. Bootsma, Bloomfield, Iowa, in support of the Capper-Kelley resale price bill (H. R. 11); to the Committee on Interstate and Foreign Commerce.

7996. Also, petition of H. T. Berry, Pulaski, Iowa, in support of the Capper-Kelley resale price bill (H. R. 11); to the Committee on Interstate and Foreign Commerce.

7997. Also, petition of druggists and other business men of Sigourney, Iowa, in support of the Capper-Kelley resale price bill (H. R. 11) submitted by Paul O. Weller, Sigourney, Iowa; to the Committee on Interstate and Foreign Commerce.

7998. Also, petition of druggists and other business men at Newton and Grinnell, Iowa, in support of the Capper-Kelley resale price bill (H. R. 11) submitted by P. J. Jepson, Newton, Iowa; to the Committee on Interstate and Foreign Commerce.

7999. Also, petition of druggists and other business men of Oskaloosa, Eddyville, and New Sharon, Iowa, in support of the Capper-Kelley resale price bill (H. R. 11), submitted by G. E. Stephenson, Eddyville, Iowa; to the Committee on Interstate and Foreign Commerce.

8000. Also, petition of druggists and other business men of Albia, Iowa, in support of the Capper-Kelley resale price bill (H. R. 11), submitted by E. C. Armstrong, Albia, Iowa; to the Committee on Interstate and Foreign Commerce.

8001. Also, petition of druggists and other business men of Newton, Iowa, in support of the Capper-Kelley resale price bill (H. R. 11), submitted by G. H. Nollen, Newton, Iowa; to the Committee on Interstate and Foreign Commerce.

8002. Also, petition of druggists and other business men of Iowa, in support of the Capper-Kelley resale price bill (H. R. 11), submitted by C. A. Burt, Delta, Iowa; to the Committee on Interstate and Foreign Commerce.

8003. Also, petition of druggists and other business men of Ottumwa, Iowa, submitted by C. A. Hill, Ottumwa, Iowa, in favor of the Capper-Kelley resale price bill (H. R. 11); to the Committee on Interstate and Foreign Commerce.

8004. By Mr. SWICK: Petition of Lawrence County Pomona Grange, No. 65, Patrons of Husbandry, New Castle, Pa., protesting the construction of more cruisers than actually needed for police protection, and urging the ratification of the Kellogg peace pact; to the Committee on Naval Affairs.

8005. Also, petition of congregation of the Union Reformed Presbyterian Church, of Mars, Pa., for a Christian amendment to the Constitution of the United States; to the Committee on Revision of Laws.

SENATE

SATURDAY, December 15, 1928

The Chaplain, Rev. Z. Barney T. Phillips, D. D., offered the following prayer:

Almighty Lord, to whom all things in heaven and earth do bow, be now and evermore the strong tower and defense of this Nation, that Thy people may be sober-minded, truthful, reverent in spirit, and pure in heart. Let no unhallowed words pollute the tongues which Thou hast made to praise and bless Thee, no evil action defile the bodies which Thou hast taught us are the temples of Thy presence. Thou hast crowned our country with vast and marvelous achievements; make us, therefore, worthy of the past and true prophets of the future, that Thy kingdom may come and Thy will be done on earth as it is in heaven. Grant this for the sake of Jesus Christ, Thy Son our Lord. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Thursday, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

PERSONAL EXPLANATION—BOULDER DAM

Mr. SMOOT. Mr. President, yesterday afternoon I was suffering from a severe headache. I went home early and was not present in the Chamber when the Boulder Dam bill was voted upon. I want to take this occasion, however, to state that if I had been here I would have voted against the bill. I had no idea that it would be finally voted upon at that time.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had adopted a concurrent resolution (H. Con. Res. 45) providing that when the two Houses adjourn on Saturday, December 22, 1928, they stand adjourned until 12 o'clock meridian, Thursday, January 3, 1929, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 14800. An act granting pensions and increase of pensions to certain soldiers, sailors, and marines of the Civil War and certain widows and dependent children of soldiers, sailors, and marines of said war; and

H. R. 15089. An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1930, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled joint resolution (H. J. Res. 346) authorizing the payment of salaries of the officers and employees of Congress for December, 1928, on the 20th day of that month, and it was signed by the Vice President.

CALL OF THE ROLL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	La Follette	Simmons
Barkley	Frazier	McKellar	Smith
Bayard	George	McMaster	Smoot
Bingham	Gerry	McNary	Steak
Black	Gillett	Moses	Stelwer
Blaine	Glass	Neely	Stephens
Blease	Glenn	Nye	Swanson
Borah	Goff	Oddie	Thomas, Idaho
Bratton	Gould	Overman	Thomas, Okla.
Brookhart	Greene	Phillips	Trammell
Broussard	Hale	Pine	Tydings
Bruce	Harris	Pittman	Tyson
Capper	Harrison	Ransdell	Vandenberg
Caraway	Hawes	Reed, Mo.	Walsh, Mass.
Couzens	Hayden	Reed, Pa.	Walsh, Mont.
Curtis	Heflin	Robinson, Ind.	Warren
Dale	Johnson	Sackett	Waterman
Deneen	Jones	Schall	Watson
Dill	Kendrick	Sheppard	Wheeler
Edwards	Keyes	Shipstead	
Fess	King	Shortridge	

Mr. JONES. I desire to announce that the junior Senator from Delaware [Mr. HASTINGS] is detained on official business.

I also wish to announce that the Senator from Nebraska [Mr. NORRIS] is necessarily absent at a meeting of the Committee on the Judiciary.

Mr. SHEPPARD. My colleague the junior Senator from Texas [Mr. MAYFIELD] is unavoidably detained on account of illness. I ask that this announcement may stand for the day.

Mr. GERRY. I desire to announce that the senior Senator from New York [Mr. COPELAND] is necessarily detained from the Senate by reason of illness in his family. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-two Senators having answered to their names, a quorum is present.

SENATOR FROM OHIO

Mr. FESS. Mr. President, on November 6 THEODORE E. BURTON, of Ohio, was elected a Member of this body to fill out the unexpired term of our late lamented colleague, Frank B. Willis. His certificate of election has already been received and accepted by the Senate. Mr. BURTON is now in the Chamber and ready to take the oath of office.

The VICE PRESIDENT. The Senator elect will present himself at the desk and take the oath of office.

Mr. BURTON, escorted by Mr. FESS, advanced to the Vice President's desk; and the oath prescribed by law having been administered to him by the Vice President, he took his seat in the Senate.

RECEPTION TO ORVILLE WRIGHT

Mr. BINGHAM. Mr. President, yesterday the Senate passed a joint resolution granting the distinguished flying cross to Orville Wright and making a posthumous award to his brother, Wilbur Wright. Next Monday is the twenty-fifth anniversary of the first flight ever made by man. To-day we are so fortunate as to have in the anteroom Mr. Orville Wright himself. I am sure that Members of the Senate will want to meet him and extend to him their congratulations. Therefore, I move that the Senate take a recess for five minutes in order that Mr. Wright may be presented to Senators by the Vice President.

The VICE PRESIDENT. The question is on the motion of the Senator from Connecticut.

The motion was unanimously agreed to, and the Senate took a recess for five minutes.

The Senate being in recess,

Mr. Orville Wright, escorted by Mr. BINGHAM, entered the Chamber, and, having been introduced to the Vice President,

stood with him in the area in front of the Secretary's desk and greeted the Members of the Senate as they were introduced to him by the Vice President.

At the expiration of the recess the Senate reassembled.

REPORT OF NATIONAL ACADEMY OF SCIENCES

The VICE PRESIDENT laid before the Senate a communication from the President of the National Academy of Sciences, transmitting, pursuant to law, the report of the academy for the fiscal year ended June 30, 1928, which was referred to the Committee on the Library.

PETITIONS AND MEMORIALS

Mr. FLETCHER presented a petition numerously signed by sundry citizens of Pensacola, Fla., which was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, without the signatures, as follows:

To Our Senators and Representatives in Congress:

GENTLEMEN: We, the undersigned friends and patrons of the St. Louis-San Francisco Railway Co., and its 30,000 employees, wish to bring to your attention a matter of the gravest importance to the people in general, to the various railroads of the country in particular, and also a matter of grave concern to numerous railroad employees who have spent a lifetime in their chosen profession.

The railroads of the country are the arteries of the lifeblood of the Nation. Upon their success, proper regulation, and efficient functioning depends our prosperity and economic welfare.

There has recently sprung up all over the country a competition on the part of unregulated companies, many of them irresponsible, undertaking to haul freight and passengers in interstate commerce for hire by means of busses, trucks, and publicly operated automobiles in direct competition with the railroad companies.

If this competition were for the public good and contributed to the economic welfare and development of the Nation, no fair-minded man could object. But such is not the case. This unregulated competition is not only seriously endangering the well-established, dependable, and permanent railroad service but endangers the lives and limbs of the public generally, and in case of serious accident, leaves the injured passengers or members of the public without financial protection.

It is not fair that the railroads should be destroyed or their service seriously impaired by such unregulated competition.

We, therefore, earnestly urge upon you the wisdom of Congress immediately taking charge of this situation under the commerce clause of the Constitution and passing an act strictly, justly, and fairly regulating the interstate transportation of freight and passengers by various companies using busses, trucks, automobiles, or similar vehicles for such service.

Such a bill should, among other things, require:

- (a) Proper protection against financial irresponsibility.
- (b) A fixed schedule upon which the public can depend to be furnished in season and out.
- (c) A proper tariff of freight and passenger charges subject to the regulation of a proper commission.
- (d) Careful inspection of all motor vehicles to make certain they are safe for the uses to which they are to be devoted.
- (e) Proper investigation as to the mental and physical qualifications of the driver of such vehicle for such service.
- (f) The provision for some regulatory body or bureau analogous in some respects to the Interstate Commerce Commission, which can see that such transportation companies are efficiently, fairly, conservatively, and dependably operated, and to the end that in serving the public no unnecessary damage or loss be inflicted upon other transportation companies.
- (g) An adequate tax consistent with the value of the use of the public highways of the Nation by such transportation companies, such tax to be used first for the payment of the proper supervision; and, secondly, to assist in the maintenance of the highways.
- (h) Proper regulations covering the weight, width, and size of such vehicles and prescribing safe speed regulations.

Other items may occur to you, but these are suggested with the idea that if railroad transportation is to be destroyed, that our legislative body make certain that there shall be substituted in lieu thereof, a system of transportation as reliable and efficient as the presently operated railroad systems of the country.

CITY OF PENSACOLA,

State of Florida.

(Signatures omitted.)

Mr. BLACK. Mr. President, I present a letter containing a resolution in reference to the so-called Kellogg peace treaty and ask that it may be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the letter was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

ALABAMA LEAGUE OF WOMEN VOTERS,
Birmingham, Ala., December 12, 1928.

Hon. HUGO BLACK,

United States Senate, Washington, D. C.

DEAR SENATOR BLACK: At a luncheon meeting held Tuesday, December 11, Southern Club, Birmingham, representatives of 15 women's organizations, who in turn represent about 25,000 women, passed a resolution indorsing the Kellogg peace pact.

In the resolution they urged that there be no reservations and that the treaty be ratified at the earliest possible date.

These women petition you as their elected representative in the Senate of the United States to vote for the ratification of the treaty.

Sincerely,

MARTHA DABNEY TOULMIN,
Chairman International Cooperation.

JEANNETTE M. ADAMS,

President Jefferson County League of Women Voters.

(Organizations represented: Federation of Women's Clubs, University Women, Council of Jewish Women, Missionary Societies, Woman's Christian Temperance Union, Young Women's Christian Association, Woman's Trade Union League, Business and Professional Women.)

Mr. HALE presented a petition of members of the Young Women's Christian Association, of Bangor, and sundry citizens of Portland, in the State of Maine, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were referred to the Committee on Foreign Relations.

Mr. EDWARDS presented a letter in the nature of a petition from Miss Cora L. Hartshorn, of Short Hills, N. J., accompanied by a petition signed by 977 citizens of Trenton, Millburn, Short Hills, Wyoming, Orange, East Orange, South Orange, Newark, Succasunna, Maplewood, Jersey City, and Summit, all in the State of New Jersey, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were referred to the Committee on Foreign Relations.

Mr. GILLET presented petitions of the masters of Groton School, of Groton; members of the faculty and students of Smith College, of Northampton; women of the First Methodist Episcopal Church, of Westfield; members of the School of Religious Education of Boston University; Albert E. Pillsbury, of Boston; and sundry citizens of Bridgewater, Shrewsbury, and Cambridge, all in the State of Massachusetts, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were referred to the Committee on Foreign Relations.

Mr. JONES presented petitions numerous signed by sundry citizens of Seattle, Ellispore, Everett, Auburn, Newcastle, Woodinville, Bryn Mawr, Pullman, Kettle Falls, Tumwater, Raymond, Spokane, Sumner, South Bend, Tacoma, Walla Walla, Yakima, Bellingham, Gig Harbor, LaConner, Tractown, Bremerton, Annapolis, Silverdale, Manette, Parker, Sumas, Mount Vernon, Zillah, Parkland, Kennewick, Puyallup, Rosalia, Wauna, Burlington, and Kirkland, all in the State of Washington, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were referred to the Committee on Foreign Relations.

REPORTS OF THE COMMITTEE ON MILITARY AFFAIRS

Mr. REED of Pennsylvania, from the Committee on Military Affairs, to which was referred the bill (H. R. 9961) to equalize the rank of officers in positions of great responsibility in the Army and Navy, reported it with an amendment and submitted a report (No. 1344) thereon.

He also, from the same committee, to which was referred the bill (H. R. 11469) to authorize appropriations for construction at the United States Military Academy, West Point, N. Y., reported it with amendments and submitted a report (No. 1345) thereon.

He also, from the same committee, to which was referred the bill (S. 4640) to provide for the retirement of enlisted men of the Philippine Scouts, and for other purposes, reported it without amendment and submitted a report (No. 1346) thereon.

Mr. BROOKHART, from the Committee on Military Affairs, to which was referred the bill (H. R. 7324) for the relief of Orla W. Robinson, reported it without amendment and submitted a report (No. 1347) thereon.

Mr. BLACK, from the Committee on Military Affairs, to which was referred the bill (H. R. 11071) providing for the purchase of 1,124 acres of land, more or less, in the vicinity of Camp Bullis, Tex., and authorizing an appropriation therefor, reported it without amendment and submitted a report (No. 1348) thereon.

Mr. ROBINSON of Indiana, from the Committee on Military Affairs, to which was referred the bill (H. R. 1320) for the relief of James W. Pringle, reported it with an amendment and submitted a report (No. 1349) thereon.

PRINTING OF ANNUAL REPORT OF NATIONAL SOCIETY OF DAUGHTERS OF THE AMERICAN REVOLUTION

Mr. SHIPSTEAD, from the Committee on Printing, reported the following resolution (S. Res. 280), which was considered by unanimous consent and agreed to:

Resolved, That the thirty-first annual report of the National Society of the Daughters of the American Revolution for the year ended March 1, 1928, be printed, with illustrations, as a Senate document.

PRINTING OF MANUSCRIPT "THE APPOINTING AND REMOVAL POWER OF THE PRESIDENT OF THE UNITED STATES"

Mr. SHIPSTEAD, from the Committee on Printing, to which was referred the resolution (S. Res. 204), submitted by Mr. McLEAN on April 20, 1928, reported it with an amendment and asked unanimous consent for its immediate consideration.

There being no objection, the Senate proceeded to consider the resolution.

The amendment was, in line 3, after the word "printed," to insert a comma and "as may be directed by the Joint Committee on Printing," so as to make the resolution read:

Resolved, That the manuscript entitled "The appointing and removal power of the President of the United States" by Charles E. Morganston, be printed, as may be directed by the Joint Committee on Printing, as a Senate document.

The amendment was agreed to.

The resolution as amended was agreed to.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BAYARD:

A bill (S. 4936) granting an increase of pension to Ada Beecher (with accompanying papers); to the Committee on Pensions.

By Mr. WATSON:

A bill (S. 4937) continuing the powers and authority of the Federal Radio Commission under the radio act of 1927, and for other purposes; to the Committee on Interstate Commerce.

By Mr. DILL:

A bill (S. 4938) granting war-risk insurance to the estate of Herbert Toll; to the Committee on Finance.

By Mr. BROOKHART:

A bill (S. 4939) granting compensation to Gorfey Orland Laughlin (with accompanying papers); and

A bill (S. 4940) granting compensation to George W. Priegel (with accompanying papers); to the Committee on Finance.

By Mr. TRAMMELL:

A bill (S. 4941) granting an increase of pension to Martin Padgett; to the Committee on Pensions.

By Mr. BARKLEY:

A bill (S. 4942) to authorize a preliminary survey of Rough River in Kentucky, with a view to the control of its floods; to the Committee on Commerce.

By Mr. NEELY:

A bill (S. 4943) granting an increase of pension to Emma D. Walker; to the Committee on Pensions.

By Mr. BRATTON:

A bill (S. 4944) granting a pension to Charles Watlington; to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 4945) granting a pension to Mtee Johnson (with accompanying papers); and

A bill (S. 4946) granting an increase of pension to John Lonergan (with accompanying papers); to the Committee on Pensions.

By Mr. HARRIS:

A bill (S. 4947) for the relief of James D. Poteet; to the Committee on Military Affairs.

A bill (S. 4948) for the relief of A. J. Morgan; and

A bill (S. 4949) for the relief of trustees of Mizpah Methodist Church South, located near Kingston, Ga.; to the Committee on Claims.

A bill (S. 4950) granting a pension to Frank Patty;

A bill (S. 4951) granting an increase of pension to George W. Vineyard;

A bill (S. 4952) granting an increase of pension to Stephen H. Green; and

A bill (S. 4953) granting an increase of pension to Joseph Hixon; to the Committee on Pensions.

AMENDMENT TO RIVER AND HARBOR BILL

Mr. McNARY submitted an amendment intended to be proposed by him to the bill (H. R. 14066) authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes, which was referred to the Committee on Commerce and ordered to be printed.

AMENDMENT TO INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. WALSH of Montana submitted an amendment intended to be proposed by him to House bill 15089, the Interior Department appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 91, line 3, after the word "mechanic," insert the following: "\$6,000 for a residence for the United States Commissioner," and on page 91, line 8, strike out the amount "\$214,400" and insert in lieu thereof "\$220,400."

THE CUMBERLAND FALLS PROJECT

Mr. BORAH. Mr. President, I submit a resolution and ask that it may be read. Then I am going to ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. The clerk will read the resolution. The Chief Clerk read the resolution (S. 279), as follows:

Resolved, That the Federal Power Commission be, and the same is hereby, directed to send to the Senate:

First. A copy of Executive Secretary Merrill's report upon what is known as the Cumberland Falls project.

Second. A copy of any report relative to other or allied projects in the vicinity of the Cumberland Falls project.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were each read twice by their titles and referred as indicated below:

H. R. 14800. An act granting pensions and increase of pensions to certain soldiers, sailors, and marines of the Civil War, and certain widows and dependent children of soldiers, sailors, and marines of said war; to the Committee on Pensions.

H. R. 15089. An act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1930, and for other purposes; to the Committee on Appropriations.

The following concurrent resolution (H. Con. Res. 45) was referred to the Committee on Appropriations:

Resolved by the House of Representatives (the Senate concurring), That when the two Houses adjourn on Saturday, December 22, 1928, they stand adjourned until 12 o'clock meridian, Thursday, January 3, 1929.

PRISON-MADE GOODS

The VICE PRESIDENT. Morning business is closed. The calendar under Rule VIII is in order.

Mr. CURTIS. Mr. President, the Senator from Missouri [Mr. HAWES] is in charge of the unfinished business. I understand that he desires to present some documents for printing in the RECORD, and then, perhaps, we would save time by adjourning until Monday. If the Senator from Missouri is ready to present the documents now, I ask unanimous consent that that may be done, and then we can take an adjournment, or, if it is preferred, we can take an adjournment now.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the Senator from Missouri is recognized.

Mr. HAWES. Mr. President—

Mr. SMOOT. Will the Senator from Missouri yield to me for a moment?

The PRESIDENT pro tempore. Does the Senator from Missouri yield to the Senator from Utah?

Mr. HAWES. I yield.

Mr. SMOOT. I merely wish to know whether there is going to be any action taken to-day upon the bill, and I ask the Senator that question. If not, I should like to go to the Appropriations Committee and work there, but I am interested in the bill itself, and, if there is going to be any action taken on it, I desire to be present.

Mr. CURTIS. As I understand, the Senator from Missouri desires to present some documents, and then there will be an adjournment without action on the bill. Is that correct?

Mr. HAWES. That is correct.

The PRESIDENT pro tempore. The Senator from Missouri will proceed.

Mr. HAWES. Mr. President, in connection with the unfinished business, I ask permission to have printed in the RECORD at this point three briefs regarding the constitutionality of the bill, a report just issued by the Department of Commerce, and

other documents. I make this request in order to economize time, so that the documents referred to may appear in the RECORD and be available on Monday.

Mr. LA FOLLETTE. Mr. President, it is impossible to hear the Senator from Missouri.

The PRESIDENT pro tempore. The Senator from Missouri asks unanimous consent to insert in the RECORD certain briefs discussing the question of the constitutionality of the bill constituting the unfinished business of the Senate and also a report from the Department of Commerce and other papers. Is there objection?

There being no objection, the matter referred to was ordered to be printed in the RECORD, as follows:

STATEMENT OF PRISON LABOR PROBLEM AS SHOWN BY REPORT OF SENATE COMMITTEE, FIRST SESSION, SEVENTIETH CONGRESS

[S. Rept. No. 344, 70th Cong., 1st sess.]

DIVESTING PRISON-MADE PRODUCTS OF THEIR INTERSTATE CHARACTER IN CERTAIN CASES

Mr. HAWES, from the Committee on Interstate Commerce, submitted the following report, to accompany S. 1940:

The Committee on Interstate Commerce, to which was referred the bill (S. 1940) to divest prison-made products of their interstate character in certain cases, having had the same under consideration, report favorably thereon with an amendment, and as amended recommend that the bill do pass.

After 30 days' notice, extensive hearings were held on the subject matter of this bill, beginning on February 7. Additional hearings were held on February 17, and voluminous testimony was taken. Every phase of the problem presented was considered. As a result of such hearings the following facts may be enumerated:

THE RIGHTS OF STATES

The penitentiary problem is a problem for the State. The factors that enter into its adjustment are so many and so varied as to make it essentially a State problem, and no Federal impediment should stand in the way of any State which seeks to determine its own prison affairs and the regulation of the sale of prison products.

Such impediment now exists, and it is only for the removal of the impediment that this legislation is designed.

SUPPORTED BY THREE GREAT ELEMENTS OF SOCIETY

Three distinct and powerful elements in American life earnestly indorsed this measure, each from a separate motive and different viewpoint.

The American Federation of Labor urged the passage of this bill through its properly constituted leaders, and has without exception indorsed the measure through its State organizations.

The viewpoint of labor is that under existing conditions the products of convicts are permitted to flow through channels that bring about a ruinous competition with the labor of free American citizens, 5,000,000 of whom the labor organization represents.

From an entirely different viewpoint manufacturers, representing more than \$2,500,000,000 in investments and employing both union and nonunion labor, were heard by the committee urging the passage of the measure for the reason, they stated, that under existing conditions the continuous production of prison-made products in certain centralized industries creates a condition by which the entire competitive market is demoralized and under which the products of free manufacturers are forced into ruinous competition with goods made by convicts.

Wholly aside from these divergent reasons, the General Federation of Women's Clubs, through their properly constituted representatives, and speaking for some 14,000 affiliated branches in the 48 States, urged before the committee the passage of this act on the broad humanitarian ground that under existing conditions all attempts to bring about a proper reform in the prisons of the Nation were being frustrated by the legal impediment under which State laws are made ineffective through interstate commerce.

The blind also appeared, through properly authorized representative of the national organization looking to the betterment of conditions for the blind, in support of this measure. It was brought out that convict labor is dominating the broom industry, which industry is the best suited for those so afflicted.

In addition to these were representatives of the prison reform organization with branches in the States.

It is significant that all five of these elements declared that their ultimate object was the same, to wit, the continuous employment of the convict for the benefit of the State, for his own welfare and rehabilitation, and for the care of his family, and the removal of his products from the field of ruinous competition with both free labor and invested capital.

CHARACTER OF THE BILL

The bill does not represent a new legislative proposal. The measure in similar form has been before previous Congresses, and in identical form was presented to the last Congress, but in each Congress was subjected to such a delay in its consideration that a vote by both branches

of Congress at any session has never been possible. This bill, or a similar one, has been reported favorably three times by a committee of the House and has passed the House on three occasions. A similar bill was reported favorably by the Committee on Interstate Commerce of the Senate as early as 1914.

Briefly, the bill divests convict-made products of their interstate character upon their arrival in the State of their destination and permits the laws of that State to become operative with respect to the sale and distribution of such products within that State. It is simply an enabling act.

The bill does not prohibit the transportation of convict-made goods. It does not force the enactment of any State legislation. It does not alter or in any way interfere with any existing law in any State, nor does it interfere with the management of any State penal institution.

That prisoners must be employed is one of the principles upon which this bill is founded. As a result of the passage of this measure the prisoner of the future may not only be employed but may be employed in such a way as to bring about, through scientific methods, his possible rehabilitation for reentrance into society.

"STATE USE" AND "STATES' USE" PLANS

Testimony was given to the committee concerning the State-use system now in existence in some of the larger States of the Union, and in each case conditions under such system were found satisfactory.

The State-use system is that under which the products of convict labor are diversified with the view to the needs of State institutions, the thought being that under proper surveys as to such needs and under proper diversification of industry in the prisons the output of the penitentiaries will meet the needs of the institutions of the State.

But in addition to the thought underlying the State-use system there was outlined to your committee the States' use plan under which products of a prison in one State may be sold to the institutions of another State, and under a systematic prison management the industries of certain States would be diversified to meet the requirements of certain other near-by States. Such diversification would be based not only upon the needs of adjoining States but upon the proximity of raw materials as well. Such a system also takes into consideration the employment of prisoners in a given State in such industries as will prove most beneficial to the prisoners when paroled or released in that State. But whatever the State or groups of States may do is not the province of this bill, which simply enables them to do as they please.

THE PRISON CONTRACTOR

Opposition to this measure before the committee was significantly confined to prison officials and the directors of some penal institutions, many of them capable and conscientious men. In all but one instance the institutions represented were those in which prison-made products are manufactured by prison contractors or, if manufactured under what is known as the public-account system, are sold through a contractor.

The prison contractor was not present either in person or through his representatives so far as the open hearings were concerned.

His work is the remnant of a system discarded by a majority of the States.

It is significant that with but one exception the prison contract and the prison contractor were not defended even by the opponents of this legislation.

The passage of the bill will benefit the State and the prisoner. It will injure the prison contractor. His opposition will therefore continue and pressure to defeat the bill will be largely inspired by him, although he covers his determined opposition by absence and failure openly to appear, as his occupation can not be defended as beneficial either to State or prisoner. He is the middleman profiting both from the State and the prisoner. He should be eliminated as a factor in the prison problem.

UNCONTROLLABLE ABUSES

The testimony before your committee brought to light certain evils of present conditions.

It was shown that in one State where the people of that State, through their legislature, enacted a law requiring the labeling of convict-made goods, the prisoners in the penitentiaries of that State were engaged in the manufacture of shirts and shoes which were sent out into other States to be dumped on the competitive market bearing labels of misrepresentation.

In the same State the shield of the United States and the lettering "U. S." were fraudulently placed upon the shoes for the purpose of misrepresentation and deceit. Such false labels were being placed upon products by the prisoners themselves, and in one instance they were admittedly placed on products "at the direction of the warden."

State laws against such deception and fraud are ineffective. State labeling laws and similar legislation are unenforceable, and the objectionable conditions which exist are permitted to continue only because States can not enforce their own statutes.

The State, representing the public opinion of that State by enacting laws through its legislature to prevent the sale of convict-made goods,

is powerless to enforce its own bill, because other States use its market as a dumping ground for surplus convict-made goods.

With the result that New York (for illustration) regulates the sale of convict-made goods, and the products of its own convicts are eliminated from the State market, but at present the prison contractor may dump upon the New York market the products of convicts from other States.

The State is rendered helpless, its own laws are defeated, and the prison contractor, in defiance of the public opinion of that State, secures a personal profit, first, from the State of origin; second, from the prisoner; and, third, from the market of the State, which is unable to protect itself.

The result is apparent. The products of convicts are not sold upon the market where State use is in force, and yet every other State where the contract system is used may do the thing that the law of that State prohibits.

The bill therefore does not interfere with the rights of States, but it does assist in preserving the right of self-determination for each State.

In certain States where the contract system is in effect, and even in States where the products are distributed through a contract selling agency, the work of the prisoner is under the supervision of a representative of either the so-called manufacturer or the selling agency.

However respectable such supervision may be, the theory is offensive to the principle that the control and direction of prisoners should not be delegated to anyone except responsible officials of the State, and no contractor or selling agency should have anything to do, directly or indirectly, at any time with the prisoners' supervision.

However desirous any State in the Union may be of putting an end of the contract system its efforts are futile, for the reason that it can not rid itself of misbranded and falsely labeled products sent into its borders by prison manufacturers who hold themselves out as legitimate manufacturers.

As a result of present conditions it is only natural that those who are profiting from the prison-contract system will seek to interfere with any movement in any State looking to the adoption of a different system.

The disparity in wages paid prisoners and those paid free labor need not be discussed, as the facts borne out by testimony are matters of common knowledge.

TWO YEARS GIVEN FOR READJUSTMENT

The committee is not unmindful of the practical problem presented in certain States of the necessity of changing present systems. It is this practical problem to which the conscientious wardens and prison officials who appeared before the committee will have to give their attention. It is much the simpler program to go on as at present. To change means the employment of time and study in the reorganization of prison management.

Realizing this the committee amended the bill as introduced by providing that it shall not take effect until two years from date of passage.

This amendment meets the desires of those who favor the principle of the bill, but who are anxious for time necessary to meet the practical problem in their own State.

The 2-year clause in the bill will make it possible for the prison management of any State to make such surveys and such reorganization as may be necessary.

This bill is a necessary step in a national program of prison reorganization which began some years ago with the abolition in a majority of States of the obnoxious contract system, but which has been delayed and hampered by the existence of the legal impediment to which reference has been made.

In those States where the more modern system of prison employment has been adopted through legislative enactment, prison officials reported to the committee that representatives of the General Federation of Women's Clubs, the American Federation of Labor, and the manufacturers had been cooperating to make the new system effective.

The same zeal and activity on the part of these three elements of American life may be confidently relied upon in the future to assist the Government of any State in which the people are desirous of putting into effect a new system of penal conduct.

Such cooperation, however, will only be necessary in those States where it is desired to change the present situation, and such cooperation will only be required when the State itself desires such cooperation, for there is nothing in this bill providing for any change in any State from the present order of things.

Partaking as it does only of the character of a divesting statute, the committee is satisfied as to the constitutionality of this bill. A brief ably setting forth its constitutionality will be found in the record of the hearing.

For the reasons herein set forth your committee recommends that the bill do pass with the following amendment:

In line 6 of page 2, after the word "otherwise," add a new section: "This act shall take effect two years after the date of its approval."

HOOPER CONFERENCE REPORT ON PRISON INDUSTRIES, DECEMBER 12, 1928

NEW YORK, N. Y., December 12, 1928.

Hon. HARRY B. HAWES,

United States Senate, Washington, D. C.

MY DEAR SENATOR: On December 3, 1924, a conference was held in Washington with Hon. Herbert Hoover, then Secretary of Commerce, on the subject of ruinous and unfair competition between prison-made products and free industry and labor, in which the interstate shipment of prison-made goods plays an important part.

As the result of this conference, Mr. Hoover authorized the establishment of an advisory committee on prison industries composed of 19 members, all of whom excepting two have approved the report prepared by Mr. Gorton James, of the Department of Commerce.

Thinking that possibly the information contained in this report might be useful in the discussion of the pending Hawes-Cooper, or convict labor bill, I send you my copy for such use as you may desire to make of it.

The report and the appendix covers some 175 pages. I merely send you the summarized views and conclusions contained in the first part of the report, and based upon the statistical and exhaustive details found in the balance of the report which in its entirety will be ultimately published as a public document.

Very sincerely yours,

ARTHUR T. DAVENPORT,
Chairman of Advisory Committee on Prison Industries.

[Inclosure]

DEPARTMENT OF COMMERCE,
BUREAU OF FOREIGN AND DOMESTIC COMMERCE.
PRISON INDUSTRIES

The honorable the SECRETARY OF COMMERCE,

Washington, D. C.

MY DEAR MR. SECRETARY: We take pleasure in submitting herewith the report on the survey, "Marketing of Prison Products" of which you asked us to direct the preparation.

The report was written by Mr. Gorton James, Chief of the Domestic Commerce Division, based on data secured by the Domestic Commerce Division. The work was supervised by the committee through frequent consultations of its several members, and the manuscript has been approved by members of the committee, who have authorized and signed this letter.

May we take this occasion to call your attention to certain conclusions which have been drawn directly from the facts presented in the report.

(1) Certain of the major factors in the normal cost of production which must be met by all manufacturers are entirely absent in the case of prison industries. If anything approaching normal efficiencies of operation can be attained with the use of prison facilities and labor, the total costs of production are obviously below those of the manufacturer who must meet large overhead expenses as well as employ free labor.

(2) It is the universal belief that prisoners should be usefully occupied whether as a part of their punishment or as a means of rehabilitation by teaching them habits of industry. To this end nearly every State has projects either under way or in contemplation for increasing their facilities for providing productive work for their prisoners. As a result, although many idle prisoners are reported, the percentage of those not usefully employed is being constantly diminished.

(3) The volume of goods produced by prison labor is already very large in some lines, but as more prisoners are put to work, and the industries become more efficient, the output of our prisons will be greatly increased.

(4) The effect of placing on the open market a volume of goods which have been produced below normal costs, is to lower prices and disorganize the market. While this practice tends at any time to bring about unfair competitive price conditions, the effect is more keenly felt when there is overproduction. The increase in prison production which is predicted will exaggerate this evil and make it difficult if not impossible for manufacturers employing free labor to exist in trades where the prison output becomes heavy.

(5) The solution of this problem, if prison production is to continue, and all agree that it should, would seem to be the elimination, in one way or another, of the direct price competition of the prison products with so-called "free" products. Only two methods have been proposed for the elimination of such direct price competition:

First, by identifying the prison products so that prices quoted on them would not directly affect market prices generally on similar goods. Differentiation obvious to the buyer would make it possible to sell similar goods in the same retail store with different prices for the prison products and the "free" made products.

Second, by removing the prison products entirely from the open markets.

(6) Foreign countries as well as the State have experienced difficulties in enforcing the identification of prison products, if they pass into commerce through private hands.

Solutions must be found for these problems. Otherwise either prison industries must cease and prisoners kept in idleness or the manufacture of products competing with the prison output will become impossible. Either of these developments would be disastrous, and we urge that legislators, prison authorities, and others involved in the situation give careful consideration to finding a solution.

In view of the fact that the problem is essentially a State problem because most of the output comes from State prisons, there is little that the Federal Government can do beyond upholding the States in the efforts which they make toward solutions.

Respectfully,

Arthur T. Davenport, chairman; A. F. Allison, secretary; Mrs. John F. Sippel, president, General Federation of Women's Clubs; Mrs. John D. Sherman, former president, General Federation of Women's Clubs; Mrs. Saidie Orr Dunbar, chairman department of public welfare, General Federation of Women's Clubs; Miss Julia K. Jaffray, chairman division of correction, General Federation of Women's Clubs; Mr. William Green, president American Federation of Labor; Mr. John J. Manning, secretary-treasurer union label trades department, American Federation of Labor; Mr. William Butterworth, president United States Chamber of Commerce; Mr. E. W. McCullough, manager Department of Manufacture, United States Chamber of Commerce; Mr. William J. Ellis, commissioner department of institutions and agencies, State of New Jersey; Mr. S. F. Dribben, director Association of Cotton Textile Merchants in New York; Mr. M. R. Alden, Joseph M. Hermann Shoe Co.; Mr. J. S. McDaniel, the Cordage Institute; Mr. E. E. Little, director, Eastern Broom Manufacturers & Supply Dealers' Association; Mr. George L. Barnes, Heywood-Wakefield Co.; Mr. E. S. Simpson, International Harvester Co.

MINORITY REPORT

The honorable the SECRETARY OF COMMERCE,

Washington, D. C.

MY DEAR MR. SECRETARY: Mr. Henry Pope, representing on the advisory committee the prison contractors' viewpoint, dissents from the majority approval of the report and has written the attached letter expressing his views, all of which is attached hereto and made a part hereof.

Very sincerely yours,

ARTHUR T. DAVENPORT, *Chairman.*
A. F. ALLISON, *Secretary.*

CHICAGO, ILL., November 21, 1928.

The honorable the SECRETARY OF COMMERCE,

Washington, D. C.

MY DEAR MR. SECRETARY: I take pleasure in submitting my observations on the prison-labor problem, the result of 30 years' experience. It is agreed by all students on the subject that useful employment should be furnished prisoners, and my observation is that to furnish this useful employment the work must be of a productive nature, with working conditions as near the same as conditions found in industries outside the prison.

To do this a useful product must be made and sold. Naturally, the price this article will bring depends upon the quality of the workmanship entering into it, whether same is sold with a similar product manufactured outside of prisons, and by people skilled in the marketing of this class of merchandise. If this is done, the product will bring its proper value on the market. However, if restrictions are made as to where the product of this labor is sold, or if the goods are specially branded as a prison product, you will immediately destroy the possibilities of selling at its full commercial value and eventually destroy the industry, bringing idleness to the prisoner as a result.

The total volume of prison labor compared to all labor outside of prisons is so small that it is hardly worth considering, but, even so, it is eminently unfair to confine a prisoner without occupation.

If the sale of the product of prison labor is limited to the State or its political division, it becomes at once impossible, owing to the limited market, to produce a satisfactory product to meet the price of similar products on the market. This is the result after repeated experiments, as tried by many States.

Under the most favorable conditions the chances of finding suitable employment for prisoners is most difficult. In selecting work for prisoners climatic conditions, character and age of prisoners, location of the prison, are all important factors. Consequently the widest possible field should be open for the employment of prisoners, whether confined within the walls or employed otherwise, as on parole or probation, working on farms, as can be done on a large scale and profitably in the southern part of the United States, and on a similar scale in the colder climates and more thickly populated countries.

The products of the farm, such as cotton, dairy products, etc.—in fact, any product to be sold at a fair value—must have a chance to

enter into interstate commerce, and be sold with and assembled with similar products wherever produced. To especially identify this product as prison made would, in many cases, destroy its possibility of profitable sale.

I think we all agree that the solution of this problem does not lie with the Federal Government except in so far as it may affect the Federal prisons. If the Federal Government can work out in their Federal prisons a satisfactory labor problem whereby its prisoners can be profitably and steadily employed on products sold to governmental departments, I am sure, if successful, the States will be glad to follow its lead. Until this is accomplished, I do not see where the Federal Government should interfere, and that each State should be left entire freedom as far as Government interference is concerned to work out its own prison-labor problems.

Yours very truly,

HENRY POPE.

MEMBERS OF ADVISORY COMMITTEE ON PRISON INDUSTRIES

Arthur T. Davenport, chairman Sweet-Orr & Co. (Inc.), 15 Union Square, New York City.

A. F. Allison, secretary International Association of Garment Manufacturers, 395 Broadway, New York City.

Mrs. John F. Sippel, president General Federation of Women's Clubs, 1734 N Street NW., Washington, D. C.

Mrs. John D. Sherman, former president General Federation of Women's Clubs, Olin Hotel, Denver, Colo.

Mrs. Sallie Orr-Dunbar, chairman department of public welfare, General Federation of Women's Clubs, 310 Fitzpatrick Building, Portland, Oreg.

Miss Julia K. Jaffray, chairman division of correction, General Federation of Women's Clubs, 730 Fifth Avenue, New York City.

William Green, president American Federation of Labor, Washington, D. C.

John J. Manning, American Federation of Labor, Washington, D. C.

C. L. Baine, Boot and Shoe Workers' International Union, 246 Sumner Street, Boston, Mass.

William Butterworth, president Chamber of Commerce of the United States, Washington, D. C.

E. W. McCullough, United States Chamber of Commerce, Washington, D. C.

S. F. Dribben, Association of Cotton Textile Merchants, New York City, representing the textile trade.

M. R. Alden, Joseph M. Herman Shoe Co., Millis, Mass., representing the shoe trade.

E. S. Simpson, International Harvester Co., Chicago, Ill., representing the twine and cordage trade.

George L. Barnes, Haywood-Wakefield Co., Wakefield (Boston), Mass., representing the furniture trade.

E. E. Little, New York Broom Supply Co., Brooklyn, N. Y., representing the broom trade.

Henry Pope, Bear Brand Hosiery Co., 336 West Madison Street, Chicago, Ill., representing the hosiery trade.

Sanford Bates, commissioner Department of Correction, Boston, Mass.

William J. Ellis, commissioner of State institutions and agencies, Trenton, N. J.

SUMMARY

The crux of prison manufacturing and marketing problems lies in the fact that other industries can not compete successfully on price with prison-made goods. History gives us constant examples of the fact that the selling of goods below market prices is provocative of ill feeling. This is true between nations and has resulted in such national devices as protective tariffs and antidumping legislation. In our own country the Federal Trade Commission receives many complaints arising from the selling of commodities below normal market levels.

On the other hand progress under the competitive system is gained through the elimination of the inefficient and the obsolete by the process of underselling their products. The new efficiency makes possible the lowering of price, and the old method is driven from the field. Those in business must keep up to date or give way. That is fair competition.

But when some one sells below the market he not only loses part of his own profit but breaks the market for others. Modern market mechanisms are so sensitive that in the case of most commodities, only one or a few sales below the prevailing price will bring the market price down to the new level. This is fair enough when efficiencies have made possible the lowering of price with still a fair margin of profit. When the cut in price is made because of some unfair advantage, however, the producers of competing goods see themselves being forced out of business in spite of their own efficiencies. The struggle is no longer a fair one.

Here lies the crux of the opposition to the distribution in the open market of prison-made goods. Such goods do not need to be sold at

full-market price. When the State conducts the industry there is no impelling necessity to make a profit. Some even question the ethics of taking any profit on prison products.

Furthermore many of the usual elements of costs of manufacturing are not present where prison labor under prison conditions is used. Wages are seldom paid on the full labor scale, and even where there is an attempt to use such a scale it is not subject to the usual competitive pressure which nearly always forces some wages in an ordinary factory above the normal. Then there are items of overhead, some of which are actually missing, like taxes and others, interest on borrowed capital, and others that are seldom included because they are difficult to separate from regular prison expenses for allocation to the factory.

In short, nothing but the arbitrary adding of estimated figures would bring prison factory accounts to a basis comparable with normal manufacturing accounts, and even on such a basis there would be many elements tending to upset and distort the figures.

Behind such arbitrary cost accounting, moreover, lies the fact that State moneys are actually spent for only part of the usual elements of cost. Regardless of the addition of arbitrary cost accounting elements in arriving at prices, such items would not become cash entries in the accounts of the prison and the books will show an actual profit to the State on factory operations if there is any return over and above the actual cash disbursements.

The reason that market prices are disturbed by the sale of prison products seems to lie in the fact that in the nature of things the prison goods can be sold to meet the lowest prices quoted in the market, and when the market is saturated a profit can still be made on the original actual cost of the prison-made articles while selling the goods at prices below the costs of other manufacturers. In short, the products of private factories operating with free labor can not compete, on a price basis, with prison-made products.

Evidence of the fact that prison-made goods can step into any market at will against products of free industries has been amply provided by the report on Convict Labor in 1923 issued in January, 1925, by the Bureau of Labor Statistics, United States Department of Labor. (Convict Labor in 1923, Bureau of Labor Statistics, Bulletin No. 372, U. S. Department of Labor, Government Printing Office, Washington, January, 1925; pp. 107-166.) Developments in the marketing of garments, which according to that report made up \$18,526,686 of the \$44,843,355 worth of prison products sold on the open market in 1923 (Convict Labor in 1923, Bureau of Labor Statistics, Bulletin No. 372, U. S. Department of Labor, Government Printing Office, Washington, January, 1925; pp. 107-166), furnish further evidence of the disturbance caused by contractors or State officials in charge of prison industries.

The broom industry reports a similar situation. Mr. Robert C. Norman, of New York City, testified before the congressional committee on convict labor March 5, 1926 (report of hearings before the Committee on Labor, House of Representatives, 69th Cong., 1st sess., on H. R. 8653 (interstate commerce in the products of convict labor), starting March 5, 1926, p. 84), that out of 50,000 tons of broom corn usually cut per annum, at least 12,500 tons are worked up in prisons. The binder twine and the chair industries report similar conditions. Other trades are affected, but not to such a large proportional extent.

The complaint is made that these goods are sold without identification, and the buyer does not know, in most cases, that he is buying prison-made products. The charge of unfairness arises from this lack of knowledge on the part of the buyer, and it is stated if, in all cases, the distinction between prison-made goods and the products of other factories was clear it would make an automatic distinction which would result in the selling of the two classes of goods in different markets, in the same way that differently priced automobiles reach different markets.

REMEDIES WHICH HAVE BEEN SUGGESTED

More frequently perhaps than any other suggested remedies are those which see in changes in systems of prison manufacturing the solution of all difficulties. The complete abolition of the lease, contract, and piece-price system—that is, the elimination of private interest or private profit from prison industry—is advocated by some. The complete alternative, however, that is, exclusively State-managed prison industries, has also resulted in unsatisfactory conditions either for the prisoners or for outside manufacturers and labor, or for both, and it appears that the fault may not be so much in the system of production as in the system of distribution of the products.

A brief review of the history and literature of prison industries presents many suggestions for solving the problem. It must be remembered that the goods are produced for the most part in State prisons containing prisoners supported by State money and incarcerated because of the breaking of State laws. The problem is primarily a State problem, not a national problem, except in so far as the marketing of these goods affects interstate commerce. The suggestions for remedies may be grouped under four main headings:

- I. To stop the prisoners from manufacturing articles of commerce.
- II. To remove the products of prison manufacturing from the market.
- III. To insure fair competition when prison products enter the market.

IV. To reduce by means of diversification the amount of individual items produced in prisons to such a small percentage of the total production in outside industries of those items that the prison product becomes too small a factor to disturb the market.

I. To stop the prisoners from manufacturing articles of commerce: This is the oldest remedy historically which has been tried. This used to be accomplished by the deportation of convicts to penal colonies and the performing of hand-labor tasks (but see also *ibid.* p. 186, Illinois Stats., sec. 80; p. 189, Indiana Stats., sec. 9850; p. 203, Massachusetts General Laws, sec. 74) or penal labor only in prisons. This, of course, is no longer practical.

It must not be forgotten that one of the principal purposes of factory work in prisons is to teach the prisoners a useful trade which they can practice after their release. Such a desirable use is entirely lost if the prisoners are not employed in work of a nature which they can continue when they are free, or, in other words, in work which is fairly common in their State.

The use of prisoners on the so-called public works—that is, engaging them in road building and public construction—has been used successfully in certain States. Obviously there are limitations on the number of prisoners which can be used in this way and in many States such use is inconvenient. Furthermore, although there is involved no competition in the products of such prison labor, there is competition of the prison labor itself with free labor. An analogy might be drawn in the reluctance of France to accept German reparations in the form of labor, even where it is to be used on public works which otherwise would not be built, such as railroad construction in the colonies.

II. To remove the products of prison manufacturing from the market: The abandonment of certain industries to convict labor, though now and then proposed as the logical result of letting things take their natural course, has never proved constructive; similarly the selection of an industry for a prison because it does not compete with an industry in the State. Such a policy ignores the welfare of other States as well as the question of what the prisoners will do on their return to society.

The suggestion that industries not carried on in the United States be considered for prisons is of no practical significance, since these are so few and of such a specialized nature as not to be applicable to prisons at all. The exportation of convict-labor products, while it has been urged, has never been actively pressed. Import laws of some countries, such as the British Empire, prohibit prison products from entry, and customs duties or other laws of a retaliatory nature which could be invoked against such "dumping" by other countries prevent this suggestion from having practical value.

A method in use in some States which promises help toward the solution of the difficulty is the manufacturing of goods for State use. Although this plan fills needs which otherwise would be supplied by products from private industries, nevertheless the transactions take on the nature of paper transfers on books of the State and do not affect prices in the open market. Difficulty arises in States such as Rhode Island and Vermont, which would find it difficult to absorb the total possible output of their prisons themselves.

III. To insure fair competition when prison products enter the market: It has been suggested that legislative acts might prohibit the selling of prison products below the fair market prices. In the natural operation of markets this is hardly a workable proposition. Many attempts in industries have been made to determine what are fair market prices. One concern spent a good deal of time and money studying the question only to reach the conclusion that, even with a relatively small output, they could, within certain limits, set the market price merely by offering their goods at that price.

Others would be forced to conform if it was below the quotations they were making. It is recognized economic fact that if the market is glutted, prices will drop. The fact that the prison keeps on manufacturing in order to keep its prisoners busy, whether the market is saturated or not, will bring about this latter condition from time to time, no matter what efforts are made to maintain the market price. The effect, therefore, is not solely a matter of price, and "fair market price laws" would not remedy the situation.

Another suggestion is that prison-made goods should be identified. In certain places this is done by labeling prison-made products as such. (The prison labeling bill: The following States have on their statute books laws requiring that convict-made goods when offered for sale on the public markets shall be distinctly marked in words to the following effect, "These goods are convict-made": California, Colorado, Indiana, Louisiana (brooms), Kentucky, Maine, Montana, Nebraska (binder twine), New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Wisconsin, and Washington. The following States have on their statute books laws requiring that any persons offering convict-made goods for sale on the public market shall take out a license for such sale: Colorado, Indiana, New York, Pennsylvania.) There seems to be some fear that labeling would prevent the sale of prison-made products. This is undoubtedly true to a certain extent, but there is no proof that it would make an insurmountable difficulty. Binder twine is sold to the farmer in the Northwest and advertised as a prison-made product; as such it is sold below the market price of privately produced twine and in the region where it is sold it has competed successfully with the latter.

In a certain large city one of the retail department stores is known to handle prison-made products. It has the second largest sales of any department store in the city because of its low prices. Apparently, however, in this instance its customers represent a different class of buyers than those of the higher-priced stores, and the executives of the latter do not think that it cuts materially into their sales any more than the sales of low-priced automobiles affect the market for higher-priced cars.

The hygienic conditions of prison shops have been improved in most States so that the public no longer would have occasion to object, as it might have in the past, to identified prison-made goods because of the fear of disease arising from unsanitary or unhealthy working conditions. It is an open question therefore how much effect labels might have on the sale of prison products.

IV. To reduce the amount of individual items produced in prisons to such a small percentage of the total production of those items in outside industries that the prison product becomes too small a factor to disturb the market: In other words the suggestion is for diversification. One of the primary purposes of factory work in prisons, from a penological standpoint, is to train the prisoners in a trade and fit him for a useful life after he is released. Diversification appeals to prison authorities so far as it can be introduced effectively. After all, the main purpose should not be to make a profit. Of course, a profit is desirable in so far as it relieves the taxpayer of some of the burden of the support of the penal institutions in his particular State, but the effect on the markets for the products of free labor must necessarily be subordinated to the general effect on society, on the amount of crime, on the number of criminals, and on the welfare of the great body of free citizens.

PRISON INDUSTRIES

Many different groups of people are disturbed over the present condition of prison industries. The greatest apparent difficulty in finding a solution is that different groups are affected in different ways by different phases of the problem; the interrelations have not been clearly seen, and what seem to be adequate solutions for individual parts of the problem have either been inadequate or altogether inharmonious with proposed solutions of other parts of the problem.

PRISON INDUSTRIES AS A STATE PROBLEM

The prison-industry problem is essentially a State affair. Since nearly all the prisons are State institutions supported, where necessary, by appropriations made by their legislatures, and since the punishment of crime is mostly the responsibility of the several States, the methods of care, of discipline, and of rehabilitation of prisoners must necessarily be in each State a State problem linked closely with its legal code and its organization for the administration of justice. This is particularly true because of the great differences in laws in the several States, differences in the methods of dealing with criminals, in the use of the parole, in the extent of segregation of the various kinds of convicts, and even in the legal and public attitude toward the problems of prison administration.

A STATEMENT OF THE PROBLEM

There has always been discussion as to the use of prisoners in productive pursuits, but there is a changing concept of the purpose of providing work for prisoners. The older concept, which is still retained in the law, is that work is a part of punishment; the criminal is sentenced for "three years at hard labor." The newer idea, which is gaining ground in some States, is first that enforced idleness to any man who has within himself the potentiality of reformation is a greater punishment than work, and second, that some criminals can be reformed, made into useful citizens, by being taught to do productive work. The first difficulty in arriving at a solution arises from the conflict of these two views. But aside from that controversy prison authorities and penologists agree that prisoners should be usefully occupied. Free industry and free labor accept this general principle but protest against what they contend is unfair competition resulting from such occupation. This situation has been intensified by lack of agreement on the first point.

The development of modern industry and the increasing competition in productive enterprise has added new difficulties. Certain industries have felt the competition and have objected to prison labor when its products are to be thrown on an already oversupplied market when there is unemployment in the ranks of free labor. Since the World War industry has found itself in a new phase in which the fighting ground of competition has shifted from production to distribution, and the effect of prison products on this new scene of conflict has been disturbed markets. The problem of prison labor is no longer confined within questions of administration of prisons. This governmental problem has become an industrial problem as well as penological and sociological.

THE FACTS

To serve as the basis for study, the facts regarding the prison industry problem may be briefly stated as follows:

It is accepted by prison authorities that prisoners should be given useful occupation. The skilled can usually be found special work about the prison along the lines of their ability or experience, whether it be as

carpenters or mechanics, in the repair work of the institution, as clerks in the office, as musicians in the prison band, or whatnot. For a typical list see report of the State of North Dakota. Such jobs are usually listed in prison statistics under "prison duties" and represent usually the most successful placing of prisoners in work best adapted to them. Other prisoners are sick, bodily or mentally, and can not do regular work. Such persons are listed in the "sick or idle" group. But there remains the large group of unskilled and semiskilled for which work must be provided. It is this last and usually largest group which, so far as possible, is set at "productive" work.

The methods of providing work for prisoners now used in different States are—

I. Road and construction work for the State either under the direction of State engineers or under private contractors. There are difficulties of supervision under this method which increase either with density of population or with distance from the prison.

A. Disposing the products: Work is for the State on State projects.

B. Problems: In some States the building-trades councils have objected on the ground that free labor has thus been deprived of opportunities to work. Road-building contractors and others have also objected on the ground of danger to the public of having criminals on the highways.

II. Manufacturing in the prison or work on State projects or in State-owned mines under the direction of prison authorities, or, if the work is on a large enough scale to justify, under an expert factory supervisor hired by the State working in collaboration with the warden.

A. Disposing the products: Products are the property of the State and are sold by the prison authorities. (a) Sometimes into the ordinary channels of trade through companies incorporated by the prison authorities with no identification in their name to indicate that they are not ordinary private companies. (b) In Minnesota and a few other States direct to retailers and farmers both within and outside the State borders by the prison authorities acting as such. The profits made on sales to the farmers are sufficient to pay the entire upkeep of the prisons so that no appropriations need be made out of taxes. (c) In some States, to State and municipal institutions only, on the theory that the State being charged with the expense of maintaining the prisoner, has the right to use his labor to reduce the general cost to all the taxpayers of such maintenance. It has been explained that if the prison is paid a profit on the work of its inmates, less money need be appropriated to run the prison, but if prices are lowered the State pays less for its purchases so that the taxpayers save in any case.

B. Problems: Unless there is a large enough group to justify hiring an expert director, the work in some instances has apparently been inefficiently organized and quality has not been up to market standards. Even where there is expert direction of the production, frequently there has been inadequate management of the sales of the products. Some prison administrations have organized companies with blind addresses and sold their goods through such companies under the belief that if it were known that the goods were prison made, sales would be more difficult to make. Actually wholesalers and many retailers know and can supply the names of these companies as prison-products jobbers.

In States where products are sold only to State institutions two kinds of difficulties have arisen:

(a) Small States, it is claimed by certain prison wardens (see statements of R. H. Walker, warden State prison, Montpelier, Vt., and Louis H. Putnam, director of State institutions, Providence, R. I., in hearings on convict labor before Committee on Labor, House of Representatives, 69th Cong.), can not absorb the total products of their prison if the prison specializes on one item, and if it does not specialize either quality drops or costs to the State increase beyond prices offered by private manufacturers for the same goods.

(b) There are difficulties in getting State, county, and municipal institutions to buy in any scheme of coordinated purchasing. Some States have found it necessary to enact laws requiring all institutions to submit their requisition first to the prison authorities and to get a statement from the latter that the goods can not be produced in the prisons before purchases are permitted outside. (The Massachusetts law, for instance, reads: "Sec. 53. The commissioner shall, so far as possible, cause such articles and materials as are used in the offices, departments, or institutions of the Commonwealth and of the several counties, cities, and towns to be produced by the labor of prisoners in the institutions named in section 51." Section 57, in part, is as follows: "No bill for any such articles or materials purchased for the use of said offices, departments, or institutions, otherwise than from a prison or from another institution, shall be allowed or paid unless it is accompanied by a certificate from the commissioner showing that a requisition therefor has been made and that the goods can not be supplied from the prisons. Provisions of any city charter contrary to this section shall be void.")

(c) Objections are raised by some because of the displacement in the market by prison products of a portion of the total volume of the goods which can be sold. This objection holds in an inelastic market, and the further question must be faced whether manufacturers and free labor are willing to forego that portion of the total business in order to provide work for prisoners. There is a further question, however, whether the volume of displacement is of as great consequence as the

breaking of market prices if the goods are sold without identification in a highly competitive market.

III. Prisoners are sent out to near-by privately owned mines, lumber camps, and plantations under guard, and the employer pays the State for their labor at an agreed rate per head per hour of work.

A. Disposing the products: Products are sold without identification in ordinary channels of trade. The prisons in such cases are supported in part by payments for labor made by the contractors.

B. Problem: Supervision of the prisoners is difficult; the majority of prison wardens seem to be opposed because of the difficulty of controlling the methods of handling prisoners while they are at work outside direct prison jurisdiction even though the prison has its own guards with the men. It has also been found difficult to control the conditions under which the prisoners are required to work from the standpoint of health and safety.

IV. Manufacturing within the prison walls in buildings provided, heated, and lighted by the prison, but on machinery provided by a private contractor, under direction of his foreman and on materials furnished by him, the products being his property to dispose of in the general market. In this case the State is paid nominal piece-work rates for agreed upon standard products per prisoner. Bonuses for production above standard are paid to the prisoner's account to be made available in small amounts for his use or sent to his dependents. In some cases the State receives rental for the use of the factory space.

A. Disposing of the products: Products are often mixed by the manufacturers or contractors with other products produced by the same companies using free labor or from other prisons and sold without identification in ordinary channels of trade. The prisons in such cases are supported in whole or in part by rentals for space and payments for labor from the contractors.

B. Problem: Objections to this system again come from manufacturers and wage earners whose products come into competition with those of the contractors using prison labor. The latter are free of some of the normal overhead and part of the usual labor costs of manufacturing and can, therefore, undersell producers using free labor. There are few cases where products turned out by contractors are sold exclusively to State or governmental institutions. (In West Virginia the building of State highways has been done to a very limited extent by prison labor under the direction of private contractors.)

Penologists object to both III and IV systems on the ground that the main objective is profit rather than the rehabilitation of the prisoners. The American Federation of Labor and also the General Federation of Women's Clubs have gone on record as officially opposed to either the III or IV systems of providing work for prisoners.

V. Summary of the problem: The situation as it exists in spite of improvements already realized seems far from satisfactory to any of the elements involved. Different remedies are offered. The only point on which all seem to be agreed is that there is still room for great improvement. Proponents of various State legislative experiments to improve matters say they have been handicapped by the fact that the sale to the public of prison-made goods from other States is not subject to the rules established for the local prison products, and thus the purpose of the regulations have been nullified. Furthermore, they claim that requirements that products be sold only for State use have been made difficult and often impossible to carry out because of local pressure from manufacturers, contractors, or labor unions who were willing to have State use provided only the prison does not manufacture products which compete with them. Conditions are different in different States, moreover, so that rules which apparently work successfully in one State may not be applicable in another State, making it difficult to act in concert.

FIVE ANGLES OF APPROACH TO THE PROBLEM

The determination of what can be done to improve the situation involves the consideration of the problem from at least five different standpoints: Penological, administrative, political, industrial, sociological.

PENOLOGICAL

Under this head the prime consideration rests on the fact that the convicts have been put under restraint because of the commission of crime. Recent discussions indicate a growing number of persons who substitute for the old purpose of this restraint—punishment—a new purpose, that of rehabilitation where possible. With this changing conception a new examination is necessary of the effect of the various kinds of work and the various conditions under which that work may be done in relation to the primary purpose of rehabilitation of the prisoner. The extent to which prisoners actually can be taught trades depends on the administration and also upon the size of the prison and its location.

In connection with theories of rehabilitation there seems to be one point on which there is not unanimity of opinions. Many penologists consider that all that can be done is to train convicts in habits of regular work. Others would accustom them to selected kinds of work or actually teach them a trade which they can follow after their release from prison. An agreement between these two often conflicting ideas must be reached before it can be decided, for instance, whether

or not the making of work shirts by male prisoners is an effective aid toward rehabilitation, since this is an industry employing mostly women and there is little opportunity for men to find such work. In such cases the prisoners are not being taught a trade they can probably follow after their release.

The State of New Jersey, which operates its prison shops under the State-use system, has classified its prisoners, according to their grade of mentality, into five groups. The highest group is composed of persons already skilled in some occupation and so far as possible the prison arranges for such individuals to carry on the kinds of work at which they are expert. Members of the second group are graded as "superior" and an attempt is made to teach these persons some trade. The third group of men—those of average mentality—are found work as far as possible along lines they have followed in the past, while those of the fourth and fifth groups—the subnormal and moron grades—are merely provided with some regular work, whatever may be available and suitable to their physical ability. Diversification of employment has been worked out on a State program in which each different classification of prisoners is concentrated in one or more prisons and the industrial program is built to fit the groupings of the prisoners. (See description of the New Jersey systems, p. —.)

Of course, if there is a concentration of work on one trade, either under the contract system or any other system, such a differentiation of work is not possible. The larger the prison the more possible it becomes to arrange a diversity of occupations to fit the needs of the different groups. The problem in smaller prisons from which there is no interchange with other prisons of a State, comes down to the very practical question of how far the ideal diversification and classification can be carried out with the resources and the conditions of that particular prison.

From any standpoint, but especially from the standpoint of rehabilitation, to teach a prisoner to use questionable methods seems a matter of grave concern. Yet as an illustration there is a widely quoted description of work in a certain penitentiary by women prisoners who are making fur coats into which they sewed labels stating that the coats had been made in the studios of a New York furrier. (For another illustration, note the "Cease and desist order" of the Federal Trade Commission, in the matter of the Commonwealth Manufacturing Co., and Harry Dushoff, Docket No. 1367, June 25, 1927. (See p. —.) Do such practices conform to the modern conception of the reformation of the prisoners, is a question which is asked on all sides.

ADMINISTRATIVE

Practical limitations arising from the administrative problems of any plan must be recognized at each prison. If the prisoners are to be used in productive work effectively it is frequently necessary to have an expert in that industry, in order to teach the prisoners good technique and to secure the best quality. The greater the diversity the more difficult it becomes to get expert supervisors for each of the lines of work.

Good practices and efficient work in most lines require up-to-date machinery. Of course, it is easier to install kinds of work which require the minimum of machinery. As diversification is increased more machines are required, calling for additional capital investment, as well as more space. If the goal of making prisons self-supporting is held out as the primary aim, the pressure upon the prison authorities is to secure the greatest production with a minimum of investment, an aim which does not seem consistent with ideal penology. The easiest way out, when appropriations are not available for new machinery, might seem to be for the State to make a contract with a private concern to install its own machinery. Contractors, whose natural and proper object is profit, would be influenced in such arrangements by the assurance of a fairly large and steady supply of prisoners. This, however, again tends to defeat the ideal of diversification and in the smaller prisons especially may stand in the way of putting men at the various types of work which would be most helpful to them as individuals.

There are administrative difficulties, furthermore, in connection with the disposal of the goods. Successful managers of men are often poor salesmen. It is usually asking too much, whether in a private factory or a prison shop, to expect a production superintendent to act successfully also in the capacity of sales manager. An easy way out is for the prison management to turn the selling over to a private company, and the contract system therefore appeals in many such instances. Moreover, at this time, when industrial competition is shifting from the production end to the distribution end, the necessity for expert salesmanship has become greater than in past decades. It has been pointed out often that a system which removes the products from the open market relieves the extreme pressure for this selling ability.

POLITICAL

Any remedy or remedies which are suggested for the solution of the prison-labor problem must take into account the political factors involved. There are relatively few penal institutions which are under the control of the Federal Government. The main problem lies in the State institutions, which are subject in each case to the laws of their respective States. This fact makes it difficult, even if desired, to arrive at any standard solution which will fit all cases. Furthermore, experience

seems to indicate that it is difficult for any one State to bring about the solution of its own marketing problems unless it can control prison products from other States when they enter its borders.¹ On the other hand, some States claim that they do not have sufficient market within their own borders for their own products and that any of the possible solutions must depend upon their products going into other States. Canada and many foreign countries prohibit the importation of prison-made goods, so that exporting generally is not open as a means of disposing of the goods.

There are also local political difficulties concerned with appropriations. Several States have made the prisons self-supporting. This is naturally desirable from the legislative standpoint. On the other hand, the question has been raised whether any State has a right to support its prisoners out of the profits realized on sales to the citizens of other States, received either directly or indirectly, through a private contractor.

INDUSTRIAL

Any prison product for use anywhere necessarily displaces a possible demand for the product of free labor. Unless prisoners are to be turned to work of a useless variety, that fact must be recognized; if prisoners are used on road building the job will not be available for a private contractor; if prisoners make hosiery the product will displace other goods in the retail stores somewhere; if prisoners make desks or other articles for State use some private manufacturer will be unable to make the sale of his goods to just that extent; if State printing is done in the prison it is not done by a private printer. The question has been raised whether prisoners should be allowed to work in a given trade in which there are free persons out of work. Whether or not the prison production is carried on as a profit-making activity is a factor bearing on this question.

Arguments have been advanced that, with the exception of a few major items, the displacement of free goods in the market by prison products is so small in proportion to the total volume that it does not count. Looking at it merely from the standpoint of the volume of displacement, this is true of many prison products. It is not true, however, of all lines. For instance, the argument has been advanced that the total binder-twine production by prisons of the country in 1923 was given by the Bureau of Labor Statistics as \$5,588,372. This was compared with the total value of twine and rope as reported in the United States census of manufactures of 1923, which was given as \$86,309,404. It should be pointed out, however, that the census of manufactures figures include all kinds of twine and rope; prison production is confined almost solely to binder twine. Segregated figures are not available for this one item out of the total of twine and rope reported in the census.

Likewise the total prison production of work shirts given in 1923 by the Bureau of Labor Statistics was valued at \$12,379,721. Persons have actually compared this figure in arguing this point before legislative committees with the production of men's shirts reported in the census of manufactures, although it should be obvious that the work-shirt production is only a small portion of the value of all men's shirts. Unfortunately, segregated figures are not available of free production of the identical lines for which figures are available for prison production.

Furthermore, testimony was offered before the Committee on Labor of the House of Representatives of the first session of the Sixty-ninth Congress, March 5, 1926, to the effect that 35 per cent of all the broom-corn sold in the United States went to prison factories. This would indicate that about that proportion of the brooms produced in this

¹ The following estimate of prison-made goods manufactured in other States and marketed annually in Illinois, without identification, made by the Illinois Federation of Labor, was submitted in testimony before the Committee on Labor, House of Representatives, Sixty-ninth Congress, first session, on H. R. 8653, March 5, 1926:

Convict-made goods shipped into Illinois

25,000 dozen brooms and whisks.....	\$150,000
Harness, saddlery, and leather goods.....	50,000
Furniture, wood and willow ware.....	150,000
Clothing, shirts, overalls, etc.....	500,000
Shoes.....	500,000
Hollow ware, iron pots, kettles, etc., estimates.....	25,000
Shovels, picks, and farm implements.....	50,000
Baskets, split wood, willow, reed, and rattan.....	15,000
Clay products, brick, tile, etc., from all surrounding States.....	175,000
Textiles, Sox, stockings, underwear, etc.....	125,000
Whips of all kinds, all such products used, made in prison.....	5,000
Brushes—scrub, floor, clothes, and paint brushes.....	10,000
Binding twine.....	100,000
Gloves and mittens.....	5,000
Iron and steel bolts, nuts, chains, etc.....	10,000
Cooperage.....	35,000
Mats and matting.....	10,000
Picture moldings.....	3,000
Stoves.....	10,000
Tobacco and cigars.....	5,000
Turpentine and rosin.....	20,000
Umbrellas.....	3,000
Wire baskets and other wire products.....	5,000
Paper boxes.....	5,000
Baby buggies and gocarts.....	50,000
Total.....	2,018,000

country were produced in prisons. (See testimony of Will R. Boyer in hearings before the Committee on Labor, House of Representatives, 69th Cong., 1st sess., on H. R. 8653.)

But, aside from a few lines, the volume of displacement is not considered the most important effect of the marketing of prison products. The argument is advanced that, in the wholesale markets, especially when competition is keen for purchasers, any sale at less than the prevailing market price tends to depress the entire market, even though the sale is small. There are always some sellers who will meet the lower price by cutting their own prices. Even a very small volume of goods sold below market price, merchants point out, will, in this way, bring down all prices and reduce the profits to free industry. In so far as this is true, the fact that the volume of displacement of some prison products is small, therefore, does not necessarily mean that the effect on the market is negligible. But it is contended that it may be, and often is, a serious factor in demoralizing price levels and thus injuring the business and throwing free labor out of work.

SOCIOLOGICAL

Finally any proposal toward the solution of the prison labor problem must take into consideration the general sociological effects thereof. There seems to be a widespread feeling that the effect on the markets for the products of free labor must, necessarily, be subordinated to the general effect on society on the amount of crime, on the number of criminals, and on the welfare of the great body of free citizens. To reduce the number of recidivists is in the long run a matter of paramount importance in the problem of what to do with prisoners.

On the other hand the public at large benefits, (1) if the price of goods consumed by them is reduced; (2) by lowering the costs of their prisons; (3) by having prisoners come out less dangerous and more fitted to take their place in society. And the question to be determined is whether the injury to the specially interested classes, such as employers and laborers, is sufficient to offset these general advantages.

III. MARKETING CONVICT-LABOR PRODUCTS

The latest detailed statistical study of prison industries was made in 1923 by the United States Bureau of Labor Statistics. That report was the most complete that has been made on the subject in this country. The present study was not intended to replace the 1923 report but merely to bring the most important figures as nearly up to date as possible, to canvass the present state of opinion in all the various groups concerned or interested in the problem of prison industries and to sketch briefly the principal changes and experiences in the several States since 1923. There follows a brief summary of such items gathered by a special investigator in 1925 in the field of marketing prison products.

PRISON SALES PROGRAM

Few prison industries have developed an extensive advertising or sales program. A number of those visited employed a salesman for one or more industries. The prison farm machinery plant at Stillwater, Minn., maintains a corps of field men to sell and to give service to purchasers. These men are frequently used to address meetings of farmers to explain the prison industrial program. Advertising in most prison industries is limited to the publication of catalogues or price lists of prison products, and in some prisons such a list represents the total sales effort. Arkansas, Colorado, Illinois, Massachusetts, Wisconsin, and Wyoming, all have adopted legislation requiring the price of prison products sold on the open market to be "As near the market price as possible." It seems to be the consensus of opinion, however, based on experience that it is difficult to determine fairly what is "market price," especially when the prices offered in the market are often so sensitive that they may, within limits, conform to some offering slightly out of line with those that have been prevailing.

"DUMPING" AS A PRISON SALES POLICY

The case of the State of Missouri in releasing over \$1,000,000 worth of garments on the market during the first three months of 1925, is illustrative. In 1917 the contract system which had been in vogue there for many years, was stopped by legislative enactment and public account substituted for it. In 1921 a revolving fund of \$750,000 was established to maintain the prison industries and an additional \$500,000 was advanced later.

On January 1, 1925, a new management took charge of the prison industries. After a complete relinventory and scrapping of unsalable items, the books showed \$574,000 in accounts payable, \$584,000 due for materials bought but not delivered, and practically nothing in the bank. An examination of stock and inventory on hand showed \$1,300,000 worth of materials and goods made up, mostly in odd sizes, which could not be sold except at a sacrifice. Of approximately 2,600 prisoners in the institution 500 were employed in the prison factories and over 2,000 were either idle or engaged at the prison on maintenance jobs. A complete house cleaning in the prison administration resulted, and during the first three months of 1925 it is recorded that officers placed on the market over \$1,000,000 worth of garments for whatever they would bring. During that period prison-made overalls, for example, which cost the outside manufacturer \$12.50 to produce, were sold, it is alleged,

at \$9 a dozen. This sale, merchants contended, broke the price and disorganized the market so that it had not recovered its equilibrium a year and a half later, although the physical volume of goods sold was not a large portion of the annual national production.

PRICES FOR FARM SUPPLIES

Another announced policy of some prison industries is to offer prices regularly below those of free industry. A comparison between wholesale prices of a prison factory selling farm machinery and one of its outside competitors showed the following for 1924:

1924 wholesale prices

	Outside plant	Prison plant
6-foot grain binder, straight pole.....	\$177.00	\$125.00
6-foot grain binder, tongue truck.....	194.00	137.00
7-foot grain binder, straight pole.....	183.25	129.50
7-foot grain binder, tongue truck.....	199.00	144.50
8-foot grain binder, tongue truck.....	202.50	150.00
4½-foot mower.....	67.00	47.50
5-foot mower.....	68.00	48.50
6-foot giant mower.....	72.00	51.00
6-foot mower.....	74.00	52.00
Side delivery rake.....	96.00	67.00
10-foot 26-T sulky rake.....	37.00	27.50
10-foot 32-T sulky rake.....	38.50	28.50
12-foot 36-T sulky rake.....	44.25	31.00
Tongue truck for binder.....	26.00	19.00
Transport truck for binder.....	10.00	8.00

During the same year a firm of public accountants prepared a report with reference to the operations of this State prison farm-machinery plant for the years 1921, 1922, 1923, and 1924, based on figures taken from official records of the State board of control, reports of the warden of the State prison, and data prepared by representatives of the board of control and submitted to committees of the State legislature and of Congress. This report showed a loss on the farm-machinery operations for the 4-year period of \$958,887.56.

Based on the percentage of total net loss to total net sales the actual loss on each sale of the three principal products sold by the prison plant—binders, mowers, and rakes—was estimated at 37 per cent of the net sales of these goods, or over one-third of the selling price.

With these facts in hand a legislative investigating committee said, in April, 1923:

"Your committee further finds that while the books of account kept at the said institution show a loss in the machinery department, still the profits of the industries carried on at said institution have been such that beside being self-sustaining it has accumulated a large revolving fund now on hand within a few years. It is evident that the alleged loss is one that does not in fact exist, but is due merely to the charges made for work of the inmates, which charges have never been paid to the inmates, but are rightfully retained in the funds of said institution."

According to the report of the accountants referred to above, wages credited to inmates in the farm-machinery plant for the four years, 1921-1924, totaled \$90,054.87, and there was charged against the plant by the prison as a per diem charge for inmate labor during this period \$438,083.55. The report also shows that while \$958,887.56 was lost on farm machinery, there was a profit of \$954,990.76 on binder twine sold during the 4-year period 1921-1924. The loss on farm machinery was therefore actually covered by the profits on binder twine.

In the discussion of State appropriation bills and other financial measures in the legislature, arguments have been offered in favor of maintaining the prison factories as they have been developed. The farmers need the help which lower-priced binder twine gives them is the explanation given by the officials.

INACCURATE UNIT-COST ANALYSES AS BASIS OF PRISON PRICE POLICIES

Accompanying are unit-cost analyses from several prison industries in various States and for various products. They are presented as actually used in determining prices.

An examination of these sheets shows three things—

1. Certain elements usually entering into costs, such as rent, many overhead items, selling costs, and sometimes factory labor, are absent.
2. Even when these elements are arbitrarily added in the analysis, frequently the amount charged is considered inadequate to bring them into a basis comparable with ordinary factory operations. This is particularly true of factory labor costs.
3. Few of the best managed prisons are making regular cost analyses of their products.

A comparison of the unit-cost analysis of a man's heavy work shoe at prisons A, B, C, D, E, F, G, compared with manufacturers H and I, illustrate some of these points. (See Exhibit VII.) Although there is some variation in the material costs, the shoes made by prisons A, B, D, and G and by manufacturers H and I are of the same general class. Prison factory labor costs are figured at 55 cents, 0 cents, 31 cents, and 36 cents; and free factory costs at 80 cents and 51 cents.

Comparing two prisons—E and F—manufacturing the same class of shoes, prison factory labor costs are 15 cents and 0 cents, respec-

tively, although in free factories labor costs in the same shoe are around 45 cents a pair. Note the variations: Prisons B, C, and F actually pay no wages—neither does prison A—but A arbitrarily uses a labor charge which brings its apparent costs to 55 cents, or 10 cents higher than the free factories whose average has been used for comparisons. Prison G pays only nominal wages to prison workers, but attempts the same kind of approximation by setting up a labor charge of 36 cents a pair.

Taking another example, that of the 50 inches by 32 inches quartered-oak flat-top desk (see Exhibit X) the prison factory shows a labor charge of \$8.10 covering time of instructor as compared with the free factory charge of \$4.89, an example of the difficulty of separating factory labor costs from costs of education, which is the primary object after all.

For binder twine (see Exhibit XIII) labor costs are figured at \$0.0035 and \$0.0044 per pound by two prison factories, as compared with a cost of approximately \$0.01 per pound in free factories.

In work shirts the comparison is equally striking. (See Exhibit XVI.) Three prison factories operating under contract and public account figure labor costs at 75 cents, 90 cents, and 91.4 cents per dozen work shirts, as compared with \$1.90 for one and an average of \$2 per dozen for six free factories.

"Overhead charges" in unit cost analyses in prison industries are equally erratic. No prison industry was found paying workmen's compensation insurance. In only one prison visited in which work was under a contractor did the latter pay "rent," but usually he paid for light, heat, and power. There were nearly as many variations in contract terms as there were contract prison shops. Few prison industries operating under State account made charges for interest, depreciation, maintenance, and other overhead items, which can not be escaped by free industries.

But apart from natural variations in the actual costs there are further difficulties arising from the lack of records. Quoting from the report of certified public accountants engaged in 1920 to analyze cost and other records as a basis for sales prices in a certain State prison:

"The amount of detailed records of materials, costs, and prices kept in the several departments showed great variation, the department being particularly noticeable for its lack of records. There were no records of the material used in this department during the year, the orders for which it had been used, the rates used during the year in pricing the outside sales, nor the estimated costs upon which the sales prices had been based.

"The department has good perpetual inventory of its raw materials and a detailed basis for estimating the cost of manufacture. The other department selling extensively to the outside is the department, but owing to the exceptional position held by the present foreman it seems inadvisable to make any changes at this time.

"The lack of records in the department, as previously mentioned, is due to the fact that there is no clerk in this department, that the foreman in charge of the department is not familiar with such records and their use, and that the superintendent has not seen fit to take steps to remedy the trouble himself." (Subsequently, it should be said, changes and improvements were made at this prison to correct the defects brought out by this report. The report, nevertheless, is typical of accounting conditions in many prison industries operating under State control.)

In another State prison whose industries were run by the prison authorities, prices charged for prison products did not include any charge for rent, interest, maintenance, or depreciation on buildings used by industries doing nearly \$1,500,000 worth of business annually. On May 29, 1925, out of a total of 3,690 prisoners, it was reported that only 620 were engaged in factory work, the rest being idle, only partly engaged, or doing "individual craft" work. The reason assigned for this condition was that no funds could be obtained with which to build new buildings to house additional industries. An annual report of the department in charge of these prisons for the year ending May 31, 1924, stated: "The accounting system has been completely revised under the direction of the department accountant." It evidently had not occurred to the accountant that a charge for rent on factory buildings or its equivalent, such as any free industry must include in its price policy, would provide the money with which an appropriation for new buildings could be funded in a comparatively few years.

Obviously too much can not be expected of prison accounting systems. Only a few have funds available to hire first-class accountants. Most use such accountants as come their way as prisoners to set up their books and can not be sure of continuous expert accounting.

IV. PUBLIC OR PRIVATE CONTROL OF PRISON INDUSTRIES

Among the suggestions made for solving the difficulties arising out of the competition of prison industries with free industries, changes in "systems" of prison industries are most frequently advocated. The elimination of the prison contractor and the restriction of prison

industries to State-controlled systems, as proposed by the garment industry and others, calls for an examination of the general effects of all systems of prison industries.

SYSTEMS OF PRISON INDUSTRIES

According to the terminology in common use, there are six principal "systems" of prison industries, defined as follows (see *Convict Labor* in 1923, Bulletin No. 372, U. S. Bureau of Labor Statistics, pp. 3, 4):

Contract system: Under this system the State feeds, clothes, houses, and guards the convict. To do this the State maintains an institution and a force of guards and other employees. A contractor engages with the State for the labor of the convict, which is performed within or near the institution. The contractor pays the State a stipulated amount per capita for the services of the convict, supplies his own raw material, and superintends the work.

Piece-price system: This system differs from the contract system mainly in method of payment for the labor of convicts. The State maintains the institution and feeds, clothes, and guards the convicts. The contractor supplies the raw material and pays the State an agreed amount for the work done on each piece or article manufactured by the convicts. The supervision of the work is generally performed by a prison official, although sometimes by the contractors. The officials of the prison not only maintain discipline but also dictate daily quantity of work required.

Public-account system: So far as the convict is concerned, this system does not differ from the piece-price system, but for the institution it is entirely different. In the piece-price system the contractor finances the business and assumes all the changes of profit and loss. In the public-account system the State enters the field of manufacturing on its own account. It buys the raw material, manufactures and puts the product on the market, and assumes all the risk of conducting a manufacturing business. The State has the entire care and control of the convicts and with them conducts an ordinary factory. The institution may sell the product direct or through an agent.

State-use system: Under this system the State conducts a business of manufacture or production, as in the public-account system, but the use or sale of goods produced is limited to the same institution or to other State institutions. The principle of the system is that the State shall produce articles of merchandise for governmental supply requirements only and shall not compete on the open market with the business of manufacturers employing free labor.

Public works and ways system: This system is very nearly like the State-use system. Under this system the labor is applied not to the manufacture of articles of consumption but to the construction and repair of the prison or of other public buildings, roads, parks, breakwaters, and permanent public structures.

Lease system: Under this system the State enters into a contract with a lessee, who agrees to receive the convict, to feed, clothe, house, and guard him, to keep him at work, and to pay the State a specified amount for his labor. The State reserves the right to make rules for the care of the convict and to inspect the convict's quarters and place of work. No institution is maintained by the State other than a place of detention, where the convicts can be held until placed in the hands of the lessee and in which to confine convicts who are unable to work. In other words, the prisoners themselves are leased to the contractor.

STATES TABULATED ACCORDING TO THREE GENERAL CLASSIFICATIONS IN METHODS OF MARKETING GOODS MANUFACTURED IN STATE PENAL INSTITUTIONS

Class I. States which restrict the sale of products manufactured by their prisoners to Federal, State, municipal, or county institutions.

Class II. States which manufacture convict-made goods for sale to the consuming public as well as for governmental use. Under this plan the prison-made goods are usually identified as such when sold to the consumer.

Class III. States which sell prison-made goods to private distributors or labor to contractors, who seek private profit in reselling these products to wholesale and retail dealers. Under this plan prison-made goods lose their identity before final sale is made to consumer.

CLASS I

Eleven States which manufacture prison goods for governmental use only. This classification does not include local sales of farm products: Arizona (clothing, flour, shoes, road work). See Appendix A.

Georgia (farming, fruit, road work). See Appendix A.

Massachusetts (clothing, furniture, knitting). See Appendix A. (Massachusetts sold 15 per cent of the products of the State prison shops to jobbers in 1927.)

Montana (farming, tag, license plate, clothing). See Appendix A.

Nevada (farming, dairying). See Appendix A.

New Jersey (clothing, shoes, printing, auto tags, woodworking, foundry, knitting, farm, miscellaneous). See Appendix A.

New York (shoes, furniture, underwear, printing, construction, road work, etc.). See Appendix A.

Ohio (farms, clothing, bricks, quarrying, furniture, etc.). See Appendix A.

Oregon (shoes, clothing, printing, flax shop). See Appendix A.

Pennsylvania (hosiery, shoes, printing, clothing, license plate, brush, cannery, garden, miscellaneous). See Appendix A.

Washington (shoes, plate mill, tannery, farming, dairying, printing, cabinet making, miscellaneous). See Appendix A.

CLASS II

Thirteen States which sell their convict-made goods to brokers, wholesalers, retailers, and consumers in addition to manufacturing for governmental use:

Arkansas (clothing, flour, shoes, road work). See Appendix A.

California (grain bags, sold direct to farmers). See Appendix A.

Colorado (canned fruits and vegetables, sold through brokers). See Appendix A.

Kansas (binder twine, sold to farmers). See Appendix A.

Louisiana (farm work). See Appendix A.

Minnesota (farm implements and binder twine). See Appendix A.

Mississippi (cotton growing, farming, lime crushing). See Appendix A.

New Mexico (brick). See Appendix A.

North Dakota (binder twine). See Appendix A.

Rhode Island (work shirts). See Appendix A.

South Dakota (binder twine). See Appendix A.

Texas (cotton growing, farming, livestock). See Appendix A.

Utah (overalls, clothing). See Appendix A.

CLASS III

Twenty-four States which sell prison-made goods to private distributors or labor to contractors who seek private profit in reselling these products to wholesalers and retail dealers. Under this plan prison-made goods lose their identity before final sale is made to consumer. Many, if not all, of the States listed under Class III also operate prison industries in part under Class I or Class II:

Alabama (chambray work shirts, chambray and nainsook underwear). See Appendix A.

Connecticut (work shirts). See Appendix A.

Delaware (work pants). See Appendix A.

Florida (work shirts, athletic underwear). See Appendix A.

Idaho (work shirts). See Appendix A.

Illinois (chairs, furniture, hosiery). See Appendix A.

Indiana (furniture, athletic nainsook underwear). See Appendix A.

Iowa (shirts, aprons, chairs). See Appendix A.

Kentucky (work shirts, shoes, chairs, brooms, horse collars). See Appendix A.

Maine (work shirts). See Appendix A.

Maryland (pants, wire products, brooms, athletic underwear, foundry, clothing, upholstered furniture). See Appendix A.

Michigan (textile denims, chair and cot factory, cannery, brushes, stamp plant, work shirts, overalls). See Appendix A.

Missouri (work shirts, work pants, overalls, brooms, shoes, sisal twine, and fibercraft furniture). See Appendix A.

Nebraska (furniture, work shirts). See Appendix A.

New Hampshire (furniture). See Appendix A.

North Carolina (furniture, mattress factory, convict clothing). See Appendix A.

Oklahoma (work pants, work shirts). See Appendix A.

South Carolina (fiber furniture). See Appendix A.

Tennessee (foundry, stoves and hollow ware, hosiery, loop shop, shirts). See Appendix A.

Vermont (workman's shoes). See Appendix A.

Virginia (work shirts, overalls, chairs). See Appendix A.

West Virginia (brooms, whips, work pants, work shirts). See Appendix A.

Wisconsin (hosiery). See Appendix A.

Wyoming (work shirts). See Appendix A.

California, Colorado, Florida, Georgia, North Carolina, and Virginia have recently employed large numbers of prisoners in road construction. (Convict Labor for Road Work, U. S. Department of Agriculture Bulletin No. 414. Government Printing Office, 1916, pp. 24-57.) Alabama, Arizona, Idaho, Illinois, Massachusetts, Michigan, Nevada, New Jersey, New York, Oklahoma, Oregon, South Carolina, Texas, Utah, Washington, and West Virginia have experimented with smaller numbers. (Convict Labor for Road Work, U. S. Department of Agriculture Bulletin No. 414. Government Printing Office, 1916, pp. 53-61.)

From an industrial point of view, and especially from the point of view of competition with free industry, the employment of prisoners on such work is merely a different form of State use. "The construction and repair of prisons or other public buildings, roads, parks, breakwaters, and permanent public structures" is simply one industry in which prisoners may be employed under the State-use system and is subject to the same general principles which are applicable to all industries under that system.

It should be noted, however, that the various headings in the classification are not mutually exclusive. Thus, West Virginia has had

public-account work on roads done under the contract system. Bids were called for from road-building contractors, with the offer by the State of the free use of prisoners on the work by the successful bidder. All bids received contemplated thus using prison labor. In several States at least part of the work shirts produced under contract management are for State use. On the other hand, Rhode Island prisoners make work shirts under prison management which are sold through a private contractor.

In this report, therefore, the use of this terminology has been avoided, so far as possible. Instead two methods of prison labor management only have been recognized:

1. State operation: Management by prison authorities or by persons employed by the State.

2. Contract operation: Management of the work by private persons who use the labor of the prisoners on some contractual basis and who receive the profits derived from the sale of the products.

There have also been recognized in this report four methods of disposing of the products:

1. Sale of products exclusively to State, county, and municipal institutions or work done for them—that is, production of milk or farm products for State institutions, doing laundry work (frequent in women's reformatories), and construction work on roads or public buildings.)

2. Sale of the entire product of a prison industry to a contractor, who in turn sells to the jobbers.

3. Sale to jobbers or retailers in the general market, the goods being either identified as prison products or their identity concealed.

4. Sale to the general public direct—that is, Minnesota twine.

LETTER FROM WILLIAM GREEN, PRESIDENT AMERICAN FEDERATION OF LABOR, DATED DECEMBER 11, 1928, URGING SUPPORT OF HAWES-COOPER BILL

AMERICAN FEDERATION OF LABOR,

Washington, D. C., December 11, 1928.

HON. HARRY B. HAWES,

Senate Office Building, Washington, D. C.

DEAR SIR: During the nearly half century existence of the American Federation of Labor it has persistently urged the enactment of legislation that would eliminate convict-labor competition with free labor. This competition seriously threatens the stability and security of many established industries, which employ thousands of working men and women.

The Hawes-Cooper convict labor bill, now awaiting action by the Senate, will make it possible for the several States to solve the convict-labor problem.

The bill passed the House by a vote of 303 to 39. We have been assured that at least three-fourths of the Members of the Senate are favorable to the bill and that all that is necessary for its passage is to permit it to come to a vote.

Permit me to urge you to consider the gravity of this issue, as it affects so many thousands of employees and at the same time many employers whose various lines of business are seriously menaced by the competition of goods made in prisons through the employment of convict labor.

In this request we are supported by 48 State federations of labor, 1,000 central labor unions, and 35,000 local unions. The fact that so many organizations have repeatedly and for so many years pleaded for protection from convict-labor competition will certainly appeal to the consciences and sound judgment of Members of the United States Senate.

In the hope that you will give careful consideration to the proposed measure, which I request of you in the name of 4,000,000 organized wage earners in the United States, I am

Respectfully yours,

WM. GREEN,
President American Federation of Labor.

LETTER FROM MRS. JOHN F. SIPPEL, PRESIDENT GENERAL FEDERATION OF WOMEN'S CLUBS, URGING SUPPORT OF HAWES-COOPER BILL

GENERAL FEDERATION OF WOMEN'S CLUBS,

Washington, D. C., December 13, 1928.

MY DEAR SENATOR: The General Federation of Women's Clubs strongly indorses and favors the passage by the Congress of the United States of the bill, known as the Hawes-Cooper convict labor bill (H. R. 7729) now pending before your body and passed by the House of Representatives at the last session by a vote of 303 to 39.

Interested on the one hand in the welfare of women wage earners and the blind workers, and on the other in the humanitarian work of rehabilitating the prisoner, we consider the enabling act now before you for action as a vital step toward the solution of the prison problem. Our attitude is based upon years of serious study of and experience in prison work.

Any assistance you may be able to give in bringing this measure to a prompt and favorable disposition will be greatly appreciated by our membership.

Sincerely yours,

Mrs. JOHN F. SIPP, EL,
President General Federation of Women's Clubs.

LETTER FROM A. F. ALLISON, CHAIRMAN MANUFACTURERS' CONFERENCE ON PRISON INDUSTRIES, DATED DECEMBER 13, 1928, URGING SUPPORT OF HAWES-COOPER BILL

MANUFACTURERS' CONFERENCE ON PRISON INDUSTRIES,
New York City, December 13, 1928.

Senator HARRY B. HAWES,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR HAWES: On behalf of the Manufacturers' Conference on Prison Industries I am directed respectfully to call your attention to H. R. 7729, known as the Hawes-Cooper, or convict labor, bill now pending before your body and scheduled for an early vote. As was stated in the records of the hearings, our conference represents diversified industries in more than 38 States, employing large numbers of wage earners, men and women, with an estimated capital investment of more than \$2,500,000,000.

Before indorsing this legislation and actively supporting its passage by Congress we had an exhaustive and careful study made both as to the constitutionality of the proposal and its economic merit. With respect to its constitutionality the opinions of our own counsel were fully sustained in the brief submitted by Mr. Donald Richberg, which you will find in the records of the Senate and House hearings. It is important to mention also that on the Senate committee reporting the bill there are 13 lawyers, and on the House committee 9 lawyers. Lengthy discussion of the legal phases of the bill, participated in by eminent legal minds in the House, was followed by passage of the measure in that body by a vote of 303 to 39.

As to the economic merit of the pending bill we may properly say this involves questions with which we must deal each day in the conduct of our own businesses. We now compete in markets which are only too often at the mercy of the prison contractor.

The production and sale of prison-made goods for private profit, as now encouraged or permitted by certain States, does not represent any development of superior method in the management of a factory or efficient distribution of merchandise. It is quite the reverse. It represents exploitation of cheap, nonvoluntary labor and the destruction of sound competitive markets without evidence of compensating advantages to the consumer.

In such a situation, we respectfully submit that the views of the manufacturers and the wage earners who support this convict labor bill may properly be given preference over the interests of the prison contractors.

We have indorsed that portion of the bill under which it does not actually become effective for three years, so that such readjustments may be made as may be necessary in any State in order to provide continuous and useful training in productive labor for prisoners under the State-use system.

In view of the fact that the bill was reported favorably to the Senate on February 21, 1928, and because of the shortness of the present session, we earnestly urge your support of this measure and trust you will discourage delays designed to prevent a Senate vote.

Very sincerely yours,

A. F. ALLISON, Chairman.

BANKRUPTCY FACING LARGE INDUSTRY
NATIONAL BROOM MANUFACTURERS' ASSOCIATION,
Chicago, Ill., December 12, 1928.

Hon. HARRY B. HAWES,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: At the direction of the National Broom and Allied Industries Association, in convention assembled, at Chicago, December 12, 1928, I am directed to call your attention to a measure, H. R. 7729, now pending before your body and known as the Hawes-Cooper, or convict labor, bill.

The facts related at our convention only strengthened the statements made to your honorable body at the hearings before the Interstate Commerce Committee in February, 1928, by Mr. Irwin Richard, our properly authorized representative. (P. 116, hearings.)

Bankruptcy is facing members of our industry and allied trades as the result of unfair competition in prison products. The blind are suffering from the same competition. The broom industry and allied industries are being wrecked slowly but surely by the inroads being made through the sale of convict goods. The blind are being robbed of the most suitable trade yet found for these deserving people. All the facts and figures have been set forth. Each day confirms the fear for the future.

The States are powerless to regulate the sale of prison products because one State can not regulate prison products shipped into its borders from another State. Capital and labor are suffering and the

prisoner is not gaining anything meanwhile. The present situation impedes progress; it invites disaster.

In the name of every member of the industry and allied trades which I have the honor to represent, I urge you to give your speedy approval to the disposition of this measure pending before you and assure you that your interest and activity will be greatly appreciated.

Very sincerely yours,

R. M. MONTGOMERY,
President, Grove City, Pa.

JOINT STATEMENT BY THE GENERAL FEDERATION OF WOMEN'S CLUBS IN SUPPORT OF THE HAWES-COOPER BILL

Mrs. John D. Sherman, president; Mrs. Duncan S. Johnson, chairman department of legislation; Mrs. Walter McNab Miller, chairman department of public welfare; Miss Julia K. Jaffray, chairman division of adult delinquency.

The General Federation of Women's Clubs, nearly 20 years ago, became interested in prison labor, because a group of women shirt makers in Baltimore bespoke the interest of other women to help overcome the unfair competition resulting from the large quantities of work shirts being manufactured under the contract system in Maryland penitentiaries.

The Women's Clubs carried the problem to the New York State Department of Labor which made an investigation which disclosed the fact that New York State could not protect its markets against the products of the prisons of other States, even though New York sold no prison products on the general market.

This investigation led to the organization of the National Committee on Prisons and Prison Labor, representatives of the federation assisting in launching the organization with which the general federation has consistently cooperated.

By 1912 the federation was sufficiently interested and informed to adopt the following resolution:

"Whereas club women having discussed throughout the country, under the auspices of the industrial and social conditions committee, the problem of prison labor, and said committee having submitted to careful scrutiny the reports of investigations in this field by the National Committee on Prison Labor and kindred local committees:

"Resolved, That the General Federation of Women's Clubs declares itself as opposed to the contract system of prison labor, and to every other system which exploits his labor to the detriment of the prisoner, and that we urge upon the several States the advisability of establishing healthy outdoor work for able convicts, remedial care for the feeble and degenerate, and industrial education for all who have the potentiality for reform. And we further affirm that the products of convicts' labor should be consumed by the States, and that the profits therefrom, above the just cost of his keep, should be used to support such dependent family as he may have."

Since that time a consistent campaign of education has been carried on in all of the States, a strong resolution against the exploitation of prisoners being passed at the council meeting at Atlanta in 1923.

In 1926 the sentiment against this exploitation had strengthened to the point where the federation indorsed the principles of this Hawes-Cooper bill and issued the following statement in support of this bill:

"One hundred thousand men and women are to-day confined in the prisons and reformatories of the 48 States.

"All of these prisoners who are physically and mentally fit must work, not only for their own good and to help support their families but also for the good of the State and society. No State and no private individual has any moral right to reap profit from the labor of the prisoners.

"The contract system is to the prison official the easiest way to provide for the employment of prisoners. Under this system the labor of the prisoner is leased to a private individual or corporation which pays for this labor a sum far below the price paid for free labor and in addition receives free, or for a nominal sum, rent, light, heat, and other overhead charges."

Women workers suffer bitterly from the unfair competition which results from the prison contract system. To illustrate: Approximately 40 per cent of all work shirts now sold on the markets of this country are prison made; 35 per cent of the work pants are prison made; and 10 per cent of the overalls are prison made. Such garments are manufactured exclusively by women outside the prison and both their opportunity for steady work and their wages are seriously affected. Women workers are repeatedly appealing to club women for help against this unfair competition.

The blind also suffer from the commercial exploitation of the prisoners by private business interests. Broom making is the best industry for the blind, but unfortunately it is also a favorite industry of the prison contractor, and large quantities of prison-made brooms are sold on the public markets, destroying the opportunity for the blind.

The prisoner is another victim of the prison contract system as he does not receive training in a trade he can use when released and in many instances he has full knowledge of deceit and unfair practice used in selling the products of his labor—or as James J. Davis, Secretary of Labor, has stated:

"The prisoner who sews a false label in a prison-made garment, indicating that it was made by an outside manufacturer, knows he is forced to become a liar and a cheat. If our jails and penitentiaries teach a man to lie, what can we expect of that man when we set him free?"

To attempt to meet the objections of public-spirited citizens to the prison-contract system some of the States have resorted to what is known as the "public-account" system, under which the State operates the prison industries, furnishes the raw materials, and sells the products on the general markets, either directly or through an agent.

The situation that has resulted was summed up in the following way by Mr. A. F. Allison, who represented the manufacturers' viewpoint before the National Crime Commission in Washington, November, 1927:

"As to the present situation in some of the 25 States which have more or less commercialized their prison industries—poor business management; admitted lack of proper facilities and methods of vocational training; cut-throat competition with free industry apparently are characteristic of these governmental attempts to enter the field of private business."

STATE USE OF PRISON-MADE PRODUCTS OVERCOMES THESE OBJECTIONS

President Coolidge in his first message to Congress made the following clear and explicit statement of what should be done in regard to the employment of Federal prisoners, and which is equally applicable to State prisoners:

"The National Government has never given adequate attention to its prison problems. It ought to provide employment in such forms of production as can be used by the Government, though not sold to the public in competition with private business, for all prisoners who can be placed at work, and for which they should receive a reasonable compensation available for their dependents."

Massachusetts, New York, New Jersey, Pennsylvania, and Ohio employ their prisoners in the production of commodities for consumption in State institutions and departments, and it is noteworthy that these States are making real progress toward the rehabilitation of prisoners through honest work.

These States, however, are the dumping ground for the prison products of other States. To protect their markets from cheap prison products, New York, Ohio, and some 14 other States have enacted laws providing that prison-made goods must be branded "prison made" whenever offered for sale on their general markets.

These laws have been held unconstitutional whenever tested by the courts on the ground of their interference with the provisions of the interstate commerce law. The Hawes-Cooper bill will overcome this difficulty and give State rights to States which wish to enforce branding laws.

The branding or labeling laws are intended to insure to the consumer-buyer:

1. Right to choose between prison and free made goods.
2. Right to a fair buying price.

The prison contractors are opposed to the Hawes-Cooper bill for these two reasons. If it passes they will refuse to continue the contracts and the States will be forced to produce commodities for Government use.

The General Federation of Women's Clubs at the biennial convention at Atlantic City indorsed the principles of the Hawes-Cooper bill for the following reason:

"The passage of the Cooper bill will force prison authorities to a speedy cooperation along the lines already agreed on in the conferences on the allocation of prison industries, while the manufacturers and labor organizations are at present demonstrating that their advice and assistance can be secured toward the effective working out of this program."

THE RESPONSIBILITY OF ALL CITIZENS

The prison officials should not be held solely responsible for providing employment for prisoners. In the State of Pennsylvania it is being demonstrated that the way to solve the prison-labor problem is for manufacturers and representatives of organized labor to assist the managers of the prison industries in developing these industries so that conditions are as nearly as possible parallel to the conditions the prisoners will find in outside industries. The passage of the Hawes-Cooper bill will hasten the nation-wide development of a system of employing prisoners which is just to the State, the prisoner, the prisoner's family, and the free workman and woman.

The constructive State-use program which must follow the passage of the Hawes-Cooper bill was approved by the following resolution adopted by the general federation in biennial convention assembled in Los Angeles in 1924:

RESOLUTION BY GENERAL FEDERATION OF WOMEN'S CLUBS AT SEVENTEENTH BIENNIAL CONVENTION HELD AT LOS ANGELES, CALIF., 1924

Whereas official representatives of the States of Colorado, Idaho, Montana, Nevada, New Mexico, Wyoming, Washington, and Utah held a conference on the allocation of prison industries, in Salt Lake City, Utah, April 9, 1924, and the representatives of the States of North Carolina, South Carolina, Georgia, Alabama, and Mississippi held a

similar conference at Atlanta, Ga., May 28, 1924, and adopted the following resolutions:

1. That all able-bodied, physically fit, mentally competent male and female prisoners should be employed and not maintained in idleness.

2. That as soon as practicable all work-competent prisoners be employed under the State-use system, including public work, as the fairest method of employment alike to the taxpayers, to capital, to free labor, and to the prisoners themselves, it being recognized that the basic considerations that govern the selection of State-use industries are:

(a) The selection of those industries whose products will find a ready, stable, and adequate market among the State and local government agencies, within or without the State, and for which adequate materials are obtainable at reasonable prices.

(b) The selection of industries in which the class of prisoners in the institution can be most effectively employed.

3. That all prisoners should receive such compensation as their conduct and efficiency warrant, to be paid out of the earnings of the prison industries after all costs of prison maintenance have been deducted. That earnings be applied to families of such prisoners who are dependent on them.

4. That the services of the Association of Government Service (Inc.) be utilized whenever needed as a medium for the exchange of surplus products between the States.

5. That it is the sense of the Industrial Allocation Conference that the several States, with the United States Government, together constitute the State-use system: Be it

Resolved, That the General Federation of Women's Clubs, having thoroughly investigated the program of the allocation committee and the aims and purposes of the associates for Government service, indorse this program and extend to the governors of the States enumerated above its congratulations and its sincere hope that the prisons' industrial systems may develop along the lines contemplated and urges State federations to cooperate in every way; and be it further

Resolved, That State federations where similar conferences will be held at a later date are also urged to cooperate in making these conferences successful.

BRIEFS ON CONSTITUTIONALITY OF PROPOSED LAW

1. By Donald R. Richberg.
2. By Breed, Abbott & Morgan.
3. Statement of Hon. Albert C. Ottinger, attorney general, State of New York.

OPINION CONCERNING CONSTITUTIONALITY OF A BILL TO SUBJECT PRODUCTS OF CONVICT LABOR TO THE OPERATION OF STATE LAWS

The bill in question, introduced in the Senate by Mr. Hawes (S. 1940)—and an identical bill introduced in the House by Mr. Cooper (Ohio)—provides in full as follows:

"That all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners, except paroled convicts or prisoners, or in any penal and/or reformatory institutions, transported into any State or Territory of the United States and remaining therein for use, consumption, sale, or storage, shall upon arrival and delivery in such State or Territory be subject to the operation and effect of the laws of such State or Territory to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise."

In considering the validity of the proposed legislation, attention is naturally first directed to the law which, in almost the same terms, deposed liquor shipments of their interstate character, which law was repeatedly sustained by the Supreme Court of the United States.

I

On August 8, 1890, an act of Congress was approved, since commonly described as the Wilson Act, which provided in full as follows:

"That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquors or liquids had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise." (26 Stat. 313.)

The act just quoted is substantially the same in language and general purposes as the bill now under discussion. The constitutionality of the Wilson Act was approved by the Supreme Court of the United States in the case entitled *Wilkerson v. Rahrer* (or *Re Rahrer*) (140 U. S. 545). The Supreme Court held, in brief, that this act was not an attempt to delegate the power to regulate commerce, nor to grant a power not possessed by the States, nor to adopt State laws. But the court held that Congress "has taken its own course and made its own regulation applying to these subjects of interstate commerce one com-

mon rule whose uniformity is not affected by variation in State laws in dealing with such property." The court further ruled:

"No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which devests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so."

"The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge. The manner of that disposition brought into determination upon this record involves no ground for adjudging the act of Congress inoperative and void."

"Congress did not use terms of permission to the State to act, but simply removed an impediment to the enforcement of the State laws in respect to imported packages in their original condition, created by the absence of a specific utterance on its part. It imparted no power to the State not then possessed, but allowed imported property to fall at once upon arrival within the local jurisdiction."

It will be borne in mind in reading the opinion of the Supreme Court in the *Rahrer* case that commerce in intoxicating liquors was, at this time, legitimate and that in this case the Supreme Court did not overrule, but, in fact, affirmed its opinion in *Laisy v. Hardin* (135 U. S. 100), wherein the court held that a State law which prohibited the sale of liquors in the original package was unconstitutional as an interference with the freedom of interstate commerce.

The doctrine of the *Rahrer* case was frequently affirmed by the Supreme Court in later opinions, among which the following may be cited:

Rhodes v. Iowa (170 U. S. 412).

American Express Co. v. Iowa (196 U. S. 133).

Pabst Brewing Co. v. Crenshaw (198 U. S. 17).

Rosenberger v. Pacific Express Co. (241 U. S. 48).

However, it was also held that the right to receive liquor by an individual purchaser for his own use was not affected by the Wilson Act. See *Vance v. W. A. Vandercook Co.* (170 U. S. 438). Therefore the so-called Webb-Kenyon Act was passed in 1913, prohibiting the shipment of intoxicating liquor into any State where it might be sold or used in violation of the law of such State.

The Webb-Kenyon Act was also sustained by the Supreme Court of the United States in the case entitled *James Clark Distilling Co. v. Western Maryland Railroad Co.* (242 U. S. 311). The court again affirmed the doctrine of the *Rahrer* case in the following language (p. 330):

"As we have already pointed out, the very regulation made by Congress in enacting the Wilson law to minimize the evil resulting from violating prohibitions of State law by sending liquor through interstate commerce into a State, and selling it in violation of such law, was to divest such shipments of their interstate commerce character and to strip them of the right to be sold in the original package free from State authority which otherwise would have obtained. And that Congress had the right to enact this legislation making existing and future State prohibitions applicable was the express result of the decided cases to which we have referred, beginning with *Re Rahrer* (140 U. S. 545)."

From the cases heretofore cited, it is clear beyond argument that, so far as the Wilson Act provides a precedent for the proposed act, the constitutionality of the Wilson Act has been repeatedly sustained. Therefore the doctrine is thoroughly established that, as a measure of regulation of interstate commerce, Congress may pass a law divesting goods of their interstate character upon arrival in a State in such manner as to subject those goods immediately to the operation of the laws of the State, whether still contained in the original package or not.

II

The conclusions reached in the first section of this opinion, based on the Wilson Act and the opinions of the Supreme Court sustaining the constitutionality of that act, might be presented as a sufficient answer to the question of the constitutionality of the act now under discussion. In addition, however, it may be well to anticipate a possible effort to distinguish the opinions heretofore cited on the ground that the regulation of the liquor traffic is not comparable with the regulation of traffic in other commodities. It should be freely admitted at once that the exercise of power in the regulation of commerce in intoxicating liquors has been justified by the courts at times upon reasoning which would not apply to the regulation of commerce in other commodities.

For example, in a case previously cited, *James Clark Distilling Co. v. Western Maryland Railroad Co.* (242 U. S. 311), the opinion of the court (p. 332) reads as follows:

"The fact that regulations of liquor have been upheld in numberless instances which would have been repugnant to the great guaranties of the Constitution but for the enlarged right possessed by Government to regulate liquor has never that we are aware of been taken as affording the basis for the thought that Government might exert an enlarged power as to subjects to which, under the constitutional guaranties, such enlarged power could not be applied. In other words, the exceptional

nature of the subject here regulated is the basis upon which the exceptional power exerted must rest and affords no ground for any fear that such power may be constitutionally extended to things which it may not consistently with the guaranties of the Constitution embrace."

When the regulation of the liquor traffic was cited in the Supreme Court as a basis for sustaining the Federal child labor law (the law prohibiting interstate transportation of certain child-labor products), the Supreme Court, in holding the child labor law to be unconstitutional, quoted the last sentence above quoted from the *Clark Distilling Co.* case and continued with the following comment:

"In each of these instances the use of interstate transportation was necessary to the accomplishment of harmful results. In other words, although the power over interstate transportation was to regulate, that could only be accomplished by prohibiting the use of the facilities of interstate commerce to effect the evil intended." (*Hammer v. Dagenhart*, 247 U. S. 251, 271.)

On the basis of the principles announced in the two opinions last quoted it may be urged that convict-made goods are not in themselves evil and that Congress would not have the same power to prohibit absolutely the transportation of convict-made goods, as it was held in the *Clark Distilling Co.*, case that Congress had to prohibit the transportation of intoxicating liquors. Therefore it may be urged that Congress may not divest convict-made goods of their interstate character by such legislation as now proposed.

There are two principal reasons why the argument above anticipated is not well grounded. These reasons may be considered under two headings: First, the reason why the Wilson Act decisions do apply, and, second, the reason why the child-labor decision does not apply.

THE WILSON ACT DECISIONS SUSTAIN THE PROPOSED LEGISLATION

It was not until the Supreme Court was asked to sustain the Webb-Kenyon law that the court found it necessary to hold that on account of "the exceptional nature" of intoxicating liquors, Congress could exercise "the exceptional power" of completely prohibiting interstate transportation. The Webb-Kenyon law not merely subjected liquor to the operation of State laws as a matter of intrastate commerce, but it prohibited the interstate transportation of liquor from a State into a State which prohibited the sale or use of liquor. Therefore the court found it necessary to uphold the power of Congress to prohibit absolutely the interstate transportation of liquor. The previous law (the Wilson Act) was not sustained upon the ground of the power of Congress to prohibit interstate transportation of liquor. On the contrary, the law essentially authorized such transportation, but provided that upon arrival, the goods transported should be immediately subject to the operation of the laws of the State of consignment. As the Supreme Court held in the concluding paragraph in the opinion of *Wilkerson v. Rahrer*, supra, "Jurisdiction (of the State) attached not in virtue of the law of Congress, but because the effect of the latter was to place the property where jurisdiction could attach." In other words, by the Wilson Act Congress did not prohibit interstate commerce. Any person could order liquor goods transported to him for his personal use. Any merchant could order liquor goods transported to him for sale. The law merely provided that, after interstate transportation had ceased, intrastate commerce should begin at once and be subjected, as all other intrastate commerce, to the laws of the State. The law merely provided that because goods might remain in the original package they should no longer retain that protection of interstate commerce which would permit of commercial transactions in violation of the laws of the State.

It will be seen at once that a far different question was presented when Congress, in the Webb-Kenyon Act, specifically provided "that the shipment or transportation" of liquors into States for use in violation of the laws of such States "is hereby prohibited."

THE CHILD LABOR DECISION DOES NOT APPLY TO THE PRESENT QUESTION

When the Supreme Court considered the Federal child labor law it had presented to it a question similar to that under consideration in its review of the Webb-Kenyon Act. But the child labor law went further than the Webb-Kenyon Act, because the child labor law prohibited all interstate commerce in the products of child labor produced under certain conditions. The Webb-Kenyon law only prohibited interstate transportation into certain States where the goods were to be sold or used in violation of the State laws. The child labor law prohibited interstate transportation absolutely without regard to whether the resultant intrastate commerce would be in accord with or in violation of the State laws.

It was argued in the child labor case that Congress had absolutely prohibited interstate commerce in lottery tickets, in impure foods and drugs, and in the transportation of women for immoral purposes; and, that in the *Clark Distilling Co.* case, the power of Congress had been sustained to forbid the transportation of intoxicating liquors. But the court held that in all these instances the power of Congress rests on "the character of the particular subjects dealt with" and "that the authority to prohibit is, as to them, but the exertion of the power to regulate." Then the court held that the products of child labor were "of themselves harmless"; that they were legitimate subjects of com-

merce and that the evil sought to be reached lay in the processes of production, which were "a matter of local regulation."

The foundation of the opinion of the majority in the case of *Hammer v. Dagenhart*, supra, holding that the products of child labor could not be excluded from interstate transportation is found in the following two paragraphs:

"The grant of power to Congress over the subject of interstate commerce was to enable it to regulate such commerce, and not to give it authority to control the States in their exercise of the police power over local trade and manufacture.

"The grant of authority over a purely Federal matter was not intended to destroy the local power always existing and carefully reserved to the States in the tenth amendment to the Constitution."

Thus it will be seen, particularly from the quotations just made, that the opinion of the Supreme Court holding the child labor law to be unconstitutional proceeded on the ground that Congress was seeking to interfere with the operation of State laws and was attempting to regulate by Federal law matters wholly within the authority of the individual States. Such an opinion and decision clearly can have little application to the reverse situation which is here presented, where Congress is seeking to relieve the States of any impediment to their exercise of an admitted power to regulate and control commercial transactions within the State and to pass laws necessary and proper in the exercise of the State police power.

III

One further principle may be briefly discussed in support of the proposed legislation. It may be suggested that convict-made goods are of such an "exceptional nature" that perhaps the prohibition by Congress of all interstate transportation might be justified. In the first place, it should be pointed out that the Federal child labor law was held unconstitutional by a majority of five justices against the vigorous dissent of four justices, and it is not to be assumed that the principles of that case, if hereafter maintained, will be further extended. The evils to be reached by the Federal child labor law were regarded primarily as evils in manufacture; that is, the employment of children at too early an age in dangerous industries and at unhealthful hours. The dissenting opinion of Mr. Justice Holmes appeals to the present writer as better law than the majority opinion, because evil may be found not merely in the quality of a thing but in the use to which it is put; and the evil may also be found in a thing which in itself may be good, because of the manner of its production. So that anyone with a fine moral sense may desire not to use a thing, good in itself, for the purpose of discouraging an evil method of production. In its regulation of interstate commerce it seems, therefore, that Congress may well prohibit the interstate transportation of goods when such interstate transportation is an aid to an evil in the sale, or an evil in the production.

But in any event it is clear that the Federal child labor law dealt with a production of goods by labor which in itself was not proscribed by public policy.

When we consider the question as to whether the facilities of interstate transportation should be open to the products of convict labor, we are dealing with goods of "an exceptional nature," because the labor which produced them is not free labor and there are no inherent rights of men in such labor subject to the normal protections of the Constitution. The Constitution prohibits the existence of involuntary servitude except as a punishment for crime. The provisions against deprivation of life, liberty, or property without due process of law found in the fifth and fourteenth amendments do not preserve for the convict any liberty to contract, or any right of property in his labor or the products of his labor. Other persons can not contract with the convict for his labor and thereby acquire rights of property.

It could hardly be questioned, if the labor of convicts was so utilized as to destroy the property of free men in their labor, or the property of others in the products of free labor, that prohibitions upon the use of convict labor could be imposed by any governmental power established and functioning to preserve the freedom of labor.

"There is no more important concern than to safeguard the freedom of labor upon which alone can enduring prosperity be based." (Bailey v. Alabama, 219 U. S. 219, 245.)

Without going into the subject exhaustively, it may be suggested that Congress, in exercising its power to regulate interstate commerce, can exercise the power to prohibit, following the minority opinion in the child-labor case. Also, Congress has the power to prohibit interstate commerce in articles which in themselves may be harmless (such as lottery tickets), but which are used in the promotion of an evil business. (Champion v. Ames, 188 U. S. 321.) This last statement follows the doctrine of the majority in the child-labor case, from which it seems to follow that Congress may protect interstate commerce in the products of free labor from the demoralizing influence of the competitive products of convict labor and may utilize prohibition as a means of preventing the development of interstate commerce in the products of what Congress may regard as an evil business; that is, the sale of convict-made goods.

It is not necessary to pursue this line of reasoning further, because we are not here considering a law to prohibit all interstate transportation of convict-made goods. It is merely pertinent to point out that since the precedents favor the constitutionality of such a drastic law there is an additional ground thus presented for holding that the proposed legislation now under consideration is entirely within the constitutional powers of Congress.

CONCLUSION

Having reviewed, with some care, the leading cases concerning the extent and proper exercise of the authority of Congress in the regulation of interstate commerce, it is my opinion that the pending bill proposes a valid exercise of that authority. The precedents established in the Wilson Act and in the cases referred to, wherein the Supreme Court of the United States sustained the constitutionality of that act, seem to me to be conclusive upon the question. In further support of this opinion, quotation may be made from an opinion of the Supreme Court of the State of Ohio on precisely the question now under consideration.

In holding an act of the Ohio Legislature void, which sought to regulate the sale of foreign convict-made goods, the supreme court of that State in *Arnold v. Yanders* (56 Ohio State 422), held in part, as follows:

"It is not competent for a State legislature to declare that convict-made goods are not articles of traffic and commerce, and then to act upon such declaration, and discriminate against such goods, or exclude them from the State by unfriendly legislation. Whatever Congress, either by silence or by statute, recognizes as articles of traffic and commerce, must be so received and treated by the several States. There is no act of Congress declaring that convict-made goods are not fit for traffic and commerce, and it therefore follows that such goods are the subject of commerce, and when transported from one State to another for sale or exchange, become articles of interstate commerce and entitled to be protected as such; and any discrimination against such goods in the State, where offered for sale is unconstitutional. That convict-made goods are articles of traffic and commerce is not only shown by the failure of Congress to legislate on the subject, but is conceded by the act in question: * * * As the act in question provides that it shall not affect products of the prisons of this State, the license fee of \$500 is a tax or duty imposed by this act upon such goods when imported from another State, and is clearly a regulation of commerce among the States, and an attempt to exercise a power which belongs to Congress alone * * *. The mere silence of Congress is not sufficient to authorize a State legislature to legislate upon a subject vested by the Constitution in Congress, but such silence is to be regarded as evincing the intention of Congress that the power shall remain where the Constitution has placed it. To give a State legislature power to legislate in such cases, requires an act of Congress to that effect. (*Leisy v. Hardin*, 135 U. S. 100, 10 Sup. Ct. 681; *Welton v. Missouri*, 91 U. S. 275.)"

"But if we are in a condition to acquire such protection, the appeal for relief must be made to Congress, which body alone has the power to legally grant such relief. In *re Rahrer*, 140 U. S. 545, 11 Sup. Ct. 685."

Respectfully submitted.

DONALD R. RICHBERG.

FEBRUARY 7, 1928.

(William C. Breed, Henry H. Abbott, George W. Morgan, Dana T. Ackerly, James McV. Breed, Sumner Ford, Paris S. Russell, William J. Quinn, and John B. Nash)

NEW YORK, June 7, 1928.

MR. PERRY S. NEWELL,
Secretary Association of Cotton
Textile Merchants of New York,
70 Worth Street, New York City.

Re: Hawes-Cooper convict labor bill.

DEAR MR. NEWELL: We write in reply to your letter of May 28, requesting an opinion as to the constitutionality of the measure known as the Hawes-Cooper convict labor bill (H. R. 7729). After a careful examination of the pertinent decisions of the United States Supreme Court we have reached the conclusion that this bill is clearly within the constitutional powers of Congress.

That court, in the case of *In re Rahrer* (140 U. S. 545), had under consideration an act almost identical in language, relating to transportation of intoxicating liquors in interstate commerce, and held it to be a valid and constitutional exercise of the legislative power conferred upon Congress. That ruling was not based upon the fact that the commodity involved was of an inherently vicious character but was broad enough to apply to any subject of interstate commerce. At page 562 the court said:

"No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed

by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so."

And at page 564 the court said further:

"Congress did not use terms of permission to the State to act, but simply removed an impediment to the enforcement of the State laws in respect to imported packages in their original condition, created by the absence of a specific utterance on its part. It imparted no power to the State not then possessed, but allowed imported property to fall at once upon arrival within the local jurisdiction."

That decision has been cited with approval in many subsequent Supreme Court cases and we do not find that its authority has been shaken in any way.

Another act of Congress in which substantially identical language was employed was the Lacey Act, which was designed to assist the States in enforcing their laws for the protection of game birds and animals and song birds. This act provided that the bodies of such birds and animals, when imported into a State, should become subject to the State laws upon arrival therein. The constitutionality of the act was attacked in a case which came before the New York Court of Appeals, and that court held it to be constitutional, which decision was affirmed by the United States Supreme Court, although the latter court did not find it necessary to pass upon the constitutional question. (*People v. Hesterberg*, 184 N. Y. 126; affirmed 211 U. S. 31.)

The only effect of a statute of this character, as was pointed out in *Rosenberg v. Pacific Express Co.*, (241 U. S. 48, 51), is to subject the commodity in question to State control immediately after delivery to the consignee, instead of regarding it as still in the process of interstate commerce so long as it remains in the original packages in the hands of the consignee.

We think that this is clearly such a regulation of commerce among the several States as Congress is authorized to make under Article I, section 8, of the Federal Constitution, regardless of the character of the commodity affected, and that the Hawes-Cooper Act, if brought before the Supreme Court, would be held to be a valid exercise of the constitutional power of Congress.

Yours very truly,

BREED, ABBOTT & MORGAN.

STATEMENT OF HON. ALBERT C. OTTINGER, ATTORNEY GENERAL, STATE OF NEW YORK, 1928

The fact that large quantities of prison-made goods manufactured in the prisons of States adjacent to New York State are sold in the New York market despite the fact that none of our prison-made goods are sold on the open markets compels an official interest on the part of our State in the Hawes-Cooper bill now pending in Congress.

I consider as axiomatic the unfairness of this competition and the disastrous effect upon certain industries and many workers in our State from the dumping of these prisons' goods on the New York market. We have in this the precedent and the authority of what was formerly the department of labor of New York State which participated in the movement to bring similar legislation before Congress in 1910. Our State commissioner of labor at that time felt that he had an added sanction in participating in this movement in that the legislature in forming the bureau of labor statistics, out of which the department of labor grew, had had placed upon it as its primary duty the study and elimination of the unfair convict-labor competition, and it was as his advisor that Attorney General O'Malley was called in to assist in finding a legal solution to the problem.

Our participation at this time is to explain, first, the policy of New York State as enunciated by constitution and statute, and, second, to point out the bearing of this proposed legislation in the light of litigation which our department has conducted to ascertain the constitutionality of the statute requiring branding and licensing of convict-labor products.

The history of the provisions in the constitution and statutes of New York State is so comprehensive and in a way a basis for the consideration of the subject in other States that we take the liberty of submitting herewith a brief summary of such legislation.

This summary shows a continuous recognition of two somewhat conflicting principles which were ultimately harmonized into the present public policy of our State. The first of these is to attempt to provide work for the prisoners and revenue for the State for such work; the second, is the effort to prevent this work from interfering with or debasing free labor or free institutions. As early as 1808 we find that the legislature authorized the labor of convicts in the construction of fortifications. (Ch. 155, Laws 1808, 5 Webst. 336; and ch. 20, Laws 1809, 5 Webst. 445.) In 1822 it appointed a special committee to frame a comprehensive plan for convict labor. As a result of the scheme which was adopted by this committee, the mechanics of New York City, in 1831, complained of the construction of several buildings with stone from Sing Sing Prison where the polishing was done at a fraction of the cost of such work in the city. (Assem. Doc. 1831, No. 279.) By 1833 the State prison at Auburn, under its system of contract labor, was not only paying the expenses of its own maintenance but leaving

a clear profit of over \$8,000 to the State. (Assem. Doc. 1834, No. 352.) But this result was the cause of strenuous complaint from free labor, which took the form of petitions from associations of mechanics and manufacturers from every city and many other places in the State, showing the disastrous effects of competition with prison labor and submitting evidence in support of this contention. (Assem. Doc. 1834, No. 39.)

The result of these complaints was soon shown in legislation. In 1842 the legislature provided that when convicts were convicted and sentenced to State prisons, the court should ascertain whether they had learned any mechanical trades, and it was further provided that no convict should be permitted to work except at such mechanical trade as he had previously learned, or, "in the making or manufacture of articles for which the chief supply for the consumption of the country is imported from without the United States." (Ch. 148, Laws 1842.) This is an early recognition of the danger to free domestic labor from competition with convict labor.

By chapter 245, Laws of 1844, it was provided that a new State prison should be established for the purpose of employing convicts in mining and the manufacture of iron. This law contained the provision that there should be "no manufacture in said prison except of iron, and such articles therefrom as are imported from foreign countries, and not manufactured by mechanics of this State," with certain exceptions.

On the other hand, 20 years later, by chapter 458, Laws of 1866, it was provided that the inspectors of State prisons might employ convicts "in such manner and in such branches of industry and at such kind of labor as in the judgment of said inspectors shall be most advantageous to the interests of the State and not inconsistent with the health and welfare of said convicts or the good order and discipline of said prison." This seems to be a general grant of power to employ convicts in all branches of manufacture, subject only to the discretion of the inspector.

In 1876 a constitutional amendment was adopted creating the position of superintendent of State prisons, taking effect January 1, 1877 (Art. V, sec. 4, of the constitution). The duties of this official were specifically prescribed by the legislature in chapters 107 and 253 of the Laws of 1877, the latter chapter authorizing contracts for convict labor "at any kind of work or trade which shall be approved by the superintendent for the sale of property manufactured at the prisons," to be entered into by the agent and warden, subject to the approval of the superintendent. This was amended by the legislature by chapter 83, Laws of 1883, so as to provide that no contract for convict labor to be used for the manufacture or finishing of fur or wool hats should be made.

The next year, by chapter 21, Laws of 1884, the whole State policy was reversed by providing that no new contracts should be made and no old ones renewed or extended. In 1887, by chapter 323, the first act was passed requiring the branding of convict-made goods offered for sale. This law applied only to goods made in other States, but does not appear to have ever been attacked.

In 1888, by chapter 586, the policy of the State was again completely changed and all existing prison industries wiped out except where performed by hand labor. In the same law it was provided that the articles manufactured in the penal institutions of the State should be purchased by the other State institutions and that they should not be sold in the open market. A protected market for these goods was assured by providing that State institutions could not purchase from any other source articles which could be furnished by these penal institutions. The purpose of this law was apparently to prevent competition by prison labor with any of the organized free labor of the State, and this was sought to be accomplished by restricting the field of convict labor to hand labor in which women and children alone were largely engaged.

The very next year, by chapter 382, Laws of 1889, the entire plan was again overturned. It was provided by this law that although no contracts for letting out the labor or time of any prisoner at a price per day or any other period of time should be entered into, yet they should be permitted to labor either under the so-called public-account system or the piece-price system. Apparently no prohibition of the penal institutions to discontinue such employment if it appears that the total number of prisoners employed in such manufacture exceeds 5 per cent of the total number so employed within the State.

Following this, in 1894, a clause was inserted in the new constitution (art. 3, sec. 29, taking effect January 1, 1896) prohibiting the sale of prison-made goods in the State except for State institutions. The wording of this—

"Sec. 29. Prison labor; contract system abolished: The legislature shall by law provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails, and reformatories in the State; and on and after the 1st day of January, 1897, no person in any such prison, penitentiary, jail, or reformatory shall be required or allowed to work while under sentence thereto at any trade, industry, or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given, or sold to any person, firm, association, or corporation. This section shall not be construed to prevent the legislature from providing that convicts may work for and that the products of their labor may be

disposed of to the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State or any political division thereof."

In the meantime, by chapters 698 and 699, Laws of 1894, two additional acts had been passed in reference to dealing with convict-made goods. By the former chapter it was made a misdemeanor to deal in goods made by convicts in any State other than New York without having the goods branded or marked with the words "convict made" and the date and place of making. Chapter 323, Laws of 1887, was repealed, this act being a substitute for its provisions.

By chapter 699, Laws of 1894, it was provided that the sale in this State of convict-made goods without a license constituted a misdemeanor. It contained almost the same provisions as continue to-day in the law, applying generally to all convict-made goods, and requiring an annual license fee of \$500 to be paid to the State, which should be credited to the maintenance account of the State prisons.

In 1896 chapter 931 of the laws of that year amended the act requiring such goods to be branded or marked by leaving out the discrimination against other States and making it apply equally to the goods of this State. It had previously been held unconstitutional in the case of the *People v. Hawkins* (85 Hun. 43), and the amendment was intended to obviate the objections there held fatal by the court, to wit, the interference with interstate commerce.

In 1897, by chapter 415, the labor laws were codified and in section 50 the requirements of a license and the payment of a license fee were reenacted and amended so as to apply equally to goods manufactured within or without the State. These various laws have been incorporated in the consolidated labor law with virtually no further changes.

The purpose of this resumé of legislation has been to point out that throughout the century the State was confronted with two conflicting purposes—to earn revenue to support the penal institutions by the labor of convicts and to prevent such labor from competing injuriously with free workmen and free industries.

The statutes show a long-continued recognition by the legislature and the people of the State that a clear distinction exists economically between goods made by convicts and those manufactured by free labor and in free institutions. The nature of prison-made goods, as shown partly from an analysis of statutes already considered and partly from matters of judicial knowledge, is dangerous to the free manufacture of similar goods. Prison labor is a species of slave labor. By the fourteenth amendment to the Federal Constitution slavery and involuntary servitude are not prohibited when enforced as a punishment for crime. The economic situation, therefore, is identical with that which would arise in reference to slave-made goods. It is true that in many States now a system of remuneration for convicts is in vogue, but it is also true that this is not sufficient to make the products of their labor compete equally with those of free labor.

The principle, therefore, in the light of which all these statutes must be considered is that convict-made goods differ from similar articles manufactured by free labor not merely in that they have a different origin, but that they differ fundamentally in that they are virtually a product of slave labor. If this is borne in mind it will seem more justifiable than might appear at first glance that under the police power of the State the dealing in such goods should be limited and restricted for the protection of the labor of our free citizens and the capital invested in our free industries.

It will likewise be apparent that in the exercise of the taxing power of the State a proper classification would distinguish between dealers in these two classes of goods and compel those handling the products of the degraded labor to pay a license fee not charged to other dealers. The cost of production being so much lower, it is certainly only a fair classification which would impose a greater burden of taxation upon them.

In 1910 the *Phillips-Raney* case, reported in 198 New York 539, the court of appeals confirmed the lower court on the basis of conflicting with the interstate commerce clause of the United States Constitution. This judgment was affirmed upon the authority of *People v. Hawkins* (157 N. Y. 1) without passing on any of the other questions involved in such appeal.

The extension of the principles of the police power, according to the adjudications of our court of appeals during the last 20 years, has been marked, and it is possible that more weight would be given to the above argument if the case were tried to-day. But the precedent in our State remains against this contention. On the other hand, it is definitely pertinent to your consideration of the Hawes-Cooper bill, which is an enabling act to provide directly for the contingency above outlined, that the then attorney general of our State upon receiving the decision of the court of appeals in the *Phillips-Raney* case wrote the State commissioner of labor that in his opinion a Federal act similar to that which has been passed in reference to the sale of intoxicating liquors and the sale of wild game would go far, at least, toward rendering these sections of the labor law constitutional. Whether or not they would still be held unconstitutional on other grounds can, of course, not be determined in advance. It is probable that the passage of this bill would meet the difficulties presented in the *Phillips-Raney* case and make possible the enforcement of such restrictive provisions as are on

the statute books of New York State. It was this informal opinion of the attorney general which impelled the New York State Department of Labor to be represented at a hearing before Congress in 1910 and advocate the passage of a similar enabling act.

We believe that in the light of these facts and in the hope of protecting the best interests of labor and manufacturers in New York State that it is proper for us to encourage now the passage by Congress of this enabling act as outlined in the Hawes-Cooper bill.

LEGALITY OF H. R. 7729 AS STATED BY CONGRESSMAN WILLIAM F. KOPP, CHAIRMAN OF THE LABOR COMMITTEE OF HOUSE OF REPRESENTATIVES, SUPPORTING THE HAWES-COOPER BILL

Mr. KOPP. Mr. Chairman, the Committee on Labor had full and complete hearings on this bill. Many manufacturers and representatives of labor appeared before the committee in favor of the bill. The Federation of Women's Clubs, through their representatives, also appeared before the committee on behalf of the bill. Special opportunity was given to the opponents of the bill to be heard. The committee was particularly anxious to hear every objection that could be urged. Most of those who appeared against the bill were connected in some manner with the management of prisons.

In the consideration of this bill we are confronted by two major questions. First, is the policy of the bill sound? Second, is the bill constitutional? On account of my limited time I shall confine myself to the second question.

It is no doubt true that this bill, if enacted into law, will be assailed in the courts on the ground that it is unconstitutional. It was urged before the committee that the bill was unconstitutional, and I presume a similar claim will be made here on the floor. In my judgment, however, this bill is constitutional, and I fully believe that if it ever comes before the Supreme Court of the United States it will be sustained by that high tribunal.

Before proceeding further, however, permit me to suggest that simply because some one questions the constitutionality of a bill is not a sufficient reason for voting against it. True, no Member should vote for a bill which he himself regards as unconstitutional, but if a bill embodies your convictions and you believe it is constitutional, you should not hesitate to vote for it, whatever others may do. Nothing is conjured up more often or more readily by those opposed to a bill than a doubt as to its constitutionality. Practically every progressive piece of legislation has been attacked upon that ground. Bear in mind also that if a bill is defeated here there is no way in which it can be brought before the Supreme Court of the United States to have its constitutionality determined.

You are all familiar with what is known as the commerce clause of the Constitution of the United States. This clause provides that Congress shall have power—

"To regulate commerce with foreign nations and among the several States."

Many learned dissertations have been written on this clause. Numerous decisions have construed it, but it is still open to discussion and probably will be debated as long as our Government survives. I do not claim that I can throw any new light on this important and much-discussed subject. All I can hope to do is to call your attention to a few important decisions and indicate to you the bearing that these decisions, as it appears to me, have upon the bill now under consideration. First, permit me to call particular attention to the terms of this bill. It defines no crimes and provides no penalties. No appropriation is required to carry it into effect. It simply divests prison-made goods of their interstate character and makes them subject to the laws of the different States to the same extent and in the same manner as though such goods had been manufactured in such States.

Mr. GARBNER. Mr. Chairman, will the gentleman yield?

Mr. KOPP. Yes.

Mr. GARBNER. Does the gentleman make any provision to disclose the identity of the goods? Is there any machinery set up in the bill to reveal the character of the goods?

Mr. KOPP. No. That all depends on State legislation. This is simply an enabling act.

As you are well aware, by the tenth amendment all powers not delegated to the United States nor prohibited to the States are reserved to the States, respectively, or to the people. This amendment has often been invoked in attacking the constitutionality of an act of Congress. Again and again it has been claimed that Congress has trespassed upon the reserved powers of the States. No such claim, however, can be made here. Under this bill Congress instead of taking away the reserved powers of the States protects them most fully. While the bill does not delegate any powers to the States, it does, in fact, give certain State laws a broader application. This bill, if passed, will be an enabling act for the States.

Quite a number of States have passed laws regulating the sale of convict-made goods. The most common requirement has been the marking or branding of convict-made goods before offering them for sale. All of these laws have been held unconstitutional as to convict-made goods shipped in from other States. Thus the only effect of these laws has been to restrict the sale of those convict-made goods manufactured in the

State where sold. The States have been, and are to-day, helpless against the convict-made goods shipped in from other States. This bill will enable the States to regulate the sale of prison-made goods shipped in from other States, as well as those manufactured or produced within their own borders.

The history of the enabling act upon which this bill is based is an interesting one. The question as to its constitutionality came before the Supreme Court of the United States in passing upon the Wilson law, which went into effect on August 8, 1890. Iowa had adopted prohibition by statute, but the Federal courts held that as long as intoxicating liquors were in the original packages they could nevertheless be sold within the State. Senator Wilson, of Iowa, introduced a bill to remedy the situation and this bill after being vigorously attacked as unconstitutional was passed and became a law.

The terms of this bill were as follows:

"Be it enacted, etc., That all fermented, distilled, or other intoxicating liquors or liquids, transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquors or liquids had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise."

The Wilson law was quickly attacked in the courts. Kansas at the time also had a prohibitory law. A citizen of that State made a sale of intoxicating liquors in original packages shipped from Kansas City, Mo. He was arrested under the State law and immediately applied to the United States Circuit Court for a writ of habeas corpus. The case went to the Supreme Court of the United States and there the law was fully sustained. (In re Rahrer, 140 U. S. 545.) Said the court:

"It does not admit of argument that Congress can neither delegate its own powers nor enlarge those of a State. This being so, it is urged that the act of Congress can not be sustained as a regulation of commerce. * * *

"Congress has not attempted to delegate the power to regulate commerce, or to exercise any power reserved to the States, or to grant a power not possessed by the States, or to adopt State laws. It has taken its own course and made its own regulation, applying to these subjects of interstate commerce one common rule, whose uniformity is not affected by variations in State laws in dealing with such property.

"The principle upon which local option laws, so called, have been sustained is that while the legislature can not delegate its power to make a law, it can make a law which leaves it to municipalities or the people to determine some fact or state of things upon which the action of the law may depend; but we do not rest the validity of the act of Congress on this analogy. The power over interstate commerce is too vital to the integrity of the Nation to be qualified by any refinement of reasoning. The power to regulate is solely in the General Government, and it is an essential part of that regulation to prescribe the regular means for accomplishing the introduction and incorporation of articles into and with the mass of property in the country or State. (12 Wheat. 448.)

"No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so."

The bill we are now considering was patterned after the Wilson law. All it seeks to do is to divest convict-made goods of their interstate character earlier than would otherwise be the case. If the Wilson law was constitutional, why is not this bill constitutional?

After the Wilson law had been enacted and had been held to be constitutional the prohibition States found that one important difficulty in enforcing the prohibitory laws still remained. By reason of the Wilson law it was no longer legal to sell liquor in the original package in prohibition States, but it was still legal to ship liquor in the original package to residents of prohibition States.

In order to make that impossible the Webb-Kenyon bill was passed during the closing days of the third session of the Sixty-second Congress. This law entirely prohibited the shipment of liquor into prohibition States.

At the time the bill was passed William H. Taft, now Chief Justice of the United States Supreme Court, was President, and George W. Wickersham was Attorney General. When the bill reached President Taft, Attorney General Wickersham submitted to the President a strong opinion against the constitutionality of the bill and President Taft, after very full consideration, vetoed the bill upon that ground. The bill was passed over the veto of the President and became a law. In due time it was brought to the attention of the Supreme Court of the United States. By that body, through Chief Justice White, it was held to be constitutional.

I shall refer to the opinion itself, but before taking that up let me refer to the veto of President Taft. In his veto he anticipated what the

law would be in case the Webb-Kenyon law was sustained. You will find this language in his veto message:

"If Congress, however, may in addition entirely suspend the operation of the interstate-commerce clause upon a lawful subject of interstate commerce and turn the regulation of interstate commerce over to the States in respect to it, it is difficult to see how it may not suspend interstate commerce in respect to every subject of commerce wherever the police power of the State can be exercised to hinder or obstruct that commerce."

Attorney General Wickersham also recognized that if the Webb-Kenyon law was sustained it would broaden the powers of Congress beyond his previous conception. The closing paragraph of his opinion was as follows:

"The proposition begs the whole question under consideration and can only be conceded if it be held that Congress can abdicate entirely its power over interstate commerce in an article which it does not itself declare to be 'an outlaw of commerce,' but which it leaves to the varying legislation of the respective States to more or less endow with qualities of outlawry."

The decision sustaining the Webb-Kenyon law was rendered in *Clark Distilling Co. v. Western Maryland Railway Co.* (242 U. S. 311). I have not the time to quote at length from the opinion of the court, but I do want to call your attention to one statement. Said the court:

"Reading the Webb-Kenyon law in the light thus thrown upon it by the Wilson Act and the decisions of this court which sustained and applied it, there is no room for doubt that it was enacted simply to extend that which was done by the Wilson Act; that is to say, its purpose was to prevent the immunity characteristic of interstate commerce from being used to permit the receipt of liquor through such commerce in States contrary to their laws."

President Taft became Chief Justice Taft, and in *Brooks v. United States* (267 U. S. 432), decided in 1925, as Chief Justice, he referred to the decision in *Clark Distilling Co. against Western Maryland Railway Co.* and thus interpreted that decision:

"In *Clark distilling Co. v. Western Maryland Railway Co.* (242 U. S. 311) it was held that Congress had power to forbid the introduction of intoxicating liquors into any State in which their use was prohibited in order to prevent the use of interstate commerce to promote that which was illegal in the State."

To my mind, the real question to be determined, if this bill is enacted into law, will not be whether it is constitutional but whether the State laws in reference to convict-made goods are constitutional. We have 48 States. Many different laws may be passed in the regulation of convict-made goods. At this time there are quite a number of such laws on the statute books of the States. Some States require a license to sell convict-made goods; others that a merchant selling convict-made goods must put up a sign in large letters advising the public of such fact. One State, I believe, provides that the goods made by convicts must be sold for not less than the wholesale price of similar goods. The most general provision is the one that requires convict-made goods to be marked or branded before being offered for sale. The Wilson law, though sustained, did not give life to an unconstitutional State law. It only made State laws, that were valid as to intrastate liquors, valid and effective as to interstate liquors. This bill, if enacted into law, can never make valid and effective as to interstate shipments of convict-made goods any laws which are not valid and effective as to intrastate convict-made goods. No one need fear that by this bill we can breathe life into an unconstitutional State law. No such result can possibly follow, for if a State law is invalid as to intrastate goods it will also be invalid as to interstate shipments of goods. The very language of this bill says that interstate shipments of convict-made goods shall be subject to the laws of any State "to the same extent and in the same manner as if such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory." If this bill is passed the real battle will not be over its constitutionality but over the constitutionality of the different State statutes that may be passed on the subject of convict-made goods. If this bill is passed it will be held applicable to every constitutional State law and inapplicable to every unconstitutional State law.

It may be claimed that States can not pass any constitutional and valid statutes regulating the sale of convict-made goods and that, therefore, to pass this bill will prove to be useless and futile. I doubt whether anyone will take such an extreme position, but lest some one may do so I shall say a few words on this point.

That convict-made goods are a real problem has been recognized by Congress for many years. The importation of foreign convict-made goods is absolutely prohibited. Our statute on that subject provides that—

"all goods, wares, articles, and merchandise manufactured, wholly or in part, in any foreign country by convict labor shall not be entitled to entry at any of the ports of the United States, and the importation thereof is prohibited."

Though protected by a high tariff, we yet provide that under no circumstances shall foreign convict-made goods be permitted to enter

our markets. Why? Because we recognize that they are a menace to our people.

In *State v. Hawkins* (157 N. Y. 1) the Court of Appeals of New York passed upon a statute requiring that all convict-made goods, including those shipped in from other States, be branded before being exposed for sale. The defendant was convicted under this statute and his case finally reached the court of appeals. The particular goods which this defendant had exposed for sale had been made by convicts in Ohio and had been shipped into New York from that State. The New York court held that the statute was in conflict with and repugnant to the commerce clause of the Federal Constitution, and for that reason invalid.

Judge O'Brien, who wrote the majority opinion, personally went further and also held the statute to be unconstitutional on the further ground that it was an unauthorized limitation of the freedom of the individual to buy and sell articles of merchandise. No other judge, however, concurred in the latter view. One of the dissenting judges was Alton B. Parker, who was chief justice at the time, and who afterwards, as you all know, became a candidate for President. Judge Parker, in referring to the statute requiring the branding of prison-made goods before being exposed for sale, said in his dissenting opinion:

"It simply requires that prison-made merchandise shall be so branded that our citizens shall know where the goods they are buying were made. This they have a right to know."

Judge Bartlett also rendered a dissenting opinion, and, among other things, said:

"The precise question, then, is whether it is competent for this State, in the exercise of the police power, in order to promote the public welfare and prosperity, to impose the restriction, already pointed out, upon the sale of convict-made goods."

"I am of the opinion that it is for two reasons: (1) It is self-evident that the protection of free labor from competition with convict-made goods in our domestic markets will promote the public welfare and prosperity; and (2) it is competent for the State to protect its citizen from fraud or deception when any such goods are offered for sale, by advising him of the fact that they are convict made, so that he may act with full knowledge in the premises."

Only one of the seven judges then serving upon the Court of Appeals of the State of New York regarded this statute as unconstitutional because it restricted the freedom to buy and sell.

There seems to be an impression that the decisions in the child-labor cases in some way have a bearing upon this bill and make it probable that this bill, if enacted into law, will not be held constitutional. An examination of the child-labor cases will clearly show to anyone that they have no application whatever in this case.

The first child-labor decision is found in *Hammer v. Dagenhart* (247 U. S. 251). An act had been passed by Congress prohibiting the transportation in interstate commerce of goods made at a factory in which, within 30 days prior to their removal therefrom, children under 14 years of age had been employed or permitted to work, or children between the ages of 14 and 16 had been employed or permitted to work more than 8 hours in any day or more than 6 days in any week, or after the hour of 7 p. m. or before the hour of 6 a. m. A bill was filed by a father upon his own behalf and as next friend for his two minor sons, who were within the age limit fixed in the law, to enjoin the enforcement of the act on the ground that it was invalid. The act was held unconstitutional because it invaded the powers reserved to the States. That decision can have no application to this bill, for this bill certainly does not invade the powers reserved to the States. The decision in *Hammer* against *Dagenhart* teems with defenses of the reserved powers of the States. I quote briefly from the opinion written by Justice Day:

"In interpreting the Constitution, it must never be forgotten that the Nation is made up of States to which are intrusted the powers of local government and to them and to the people the powers not expressly delegated to the National Government are reserved * * *. The power of the States to regulate their purely internal affairs by such laws as seem wise to the local authority is inherent and has never been surrendered to the general movement * * *. To sustain this statute * * * would sanction invasion by the Federal power of the control of a matter purely local in its character."

The court was divided. The majority held that the articles manufactured by child labor were not at the time a part of interstate commerce, but were simply intended for interstate commerce, and for that reason subject only to local regulation. The majority, however, clearly recognized the complete control of Congress over interstate transportation.

Let me quote further from Justice Day:

"Over interstate transportation, or its incidents, the regulatory power of Congress is ample, but the protection of articles intended for interstate commerce is a matter of local regulation."

The dissenting opinion, written by the venerable Justice Holmes and joined in by three other justices, also clearly recognized the power of Congress over interstate commerce. Said Justice Holmes:

"Congress is given power to regulate such commerce in unqualified terms. It would not be argued to-day that the power to regulate does

not include the power to prohibit. Regulation means the prohibition of something, and when interstate commerce is the matter to be regulated I can not doubt that the regulation may prohibit any part of such commerce that Congress sees fit to forbid."

What could be stronger than this language used by Justice Holmes?—

"When interstate commerce is the matter to be regulated I can not doubt that the regulation may prohibit any part of such commerce that Congress sees fit to forbid."

The opinion in the second child-labor case, known as the *Child Labor Tax case* (259 U. S. 20), was rendered in 1922, and was written by Chief Justice Taft. In order to avoid the constitutional question raised in the first child-labor case, a new law was enacted in 1919 imposing a tax on the employment of child labor.

Chief Justice Taft said that in this case, as in the previous child-labor case, Congress undertook to pass a law on a matter purely within the authority of the States, and therefore declared the law invalid. There was no suggestion in either of these child-labor cases that Congress could not make State laws applicable to interstate commerce; but both of the decisions were based upon an entirely different proposition, namely, that Congress could not take away powers from the States that were reserved to them by the Constitution.

In conclusion, I again ask you to bear in mind that the only effect of this bill will be to divest convict-made goods of their interstate character at an earlier period than would otherwise be the case. I again call your attention to the opinion of the Supreme Court of the United States in the *Rahrer* case, in which that court, speaking through Chief Justice Fuller, said unequivocally and without limitation:

"No reason is perceived why, if Congress chooses to provide that certain designated subjects of interstate commerce shall be governed by a rule which divests them of that character at an earlier period of time than would otherwise be the case, it is not within its competency to do so."

Congress can not reverse the Supreme Court; that body is the final authority on constitutional questions. It has spoken definitely and conclusively on the very matter now in issue here. Therefore I submit that this bill is constitutional and that it will be sustained if enacted into law.

CONSTITUTIONAL ARGUMENT OF CONGRESSMAN HATTON SUMNERS, OF TEXAS, IN SUPPORT OF THE HAWES-COOPER BILL

Mr. SUMNERS of Texas. Mr. Chairman, ladies, and gentlemen, it seems to me that there is considerable confusion as to just what is proposed by this bill. This bill does not deal with prison policy. It is not concerned with the working of prisoners at all, or with the policy which should control in the sale and use of prison-made goods. Congress has dealt with the subject in so far as the Federal prisons are concerned, and has provided that the products of Federal prisons shall be consumed by the Federal Government. The sole proposition contained in this bill is to give to each State the right to effectuate its policy with regard to prison-made goods by making prison goods shipped into each State subject to the same police regulation exercised by the State over its own prison productions. What is wrong with that? I agree with my friend from Wisconsin [Mr. SCHAFER] who has just spoken. I can not understand how one who, believing in the right and in the necessity of the State to govern in matters of domestic concern, can withhold his vote from a proposition which puts the power of control without discrimination within the States. If the State of Texas or the State of Alabama or the State of Massachusetts wants to admit convict-made goods, there is nothing in this legislation to prohibit it; but if a sovereign State, speaking through its legislature, fixes a domestic policy, I ask what right has citizens of another State, from beyond the borders of that State, to ship into the State and sell over the protest of the people of the State commodities which may not be sold under the same conditions if produced by citizens of that State? That is the proposition. All that ever could be asked under the home philosophy and the general plan of the Union is that no State discriminate in favor of its citizens against citizens of other States.

In my statements thus far I have been dealing with the question of governmental policy. The gentleman's question is addressed to the matter of power, and that is the next question that I want to discuss, the power of Congress to enact this bill into law. When we formed the Union there were 13 independent nations which had the power to do anything and everything within the province of government not prohibited by their respective constitutions. When those States met through their representatives in the Federal Constitutional Convention they created an agency, the Federal Government, to do certain things for them. All the legislative powers of government, including the broad police power of the States, are vested either in the legislatures of the States, the Congress, or reserved to the people.

No power now to be considered as related to that power is reserved to the people. All governmental power dealing with the transportation and the status of convict-produced articles lies either with the State legislatures or with the Congress. When the States in constitutional convention delegated certain powers to the Federal Government with reference to interstate commerce, a matter with reference to which the

States had full power before the delegation and which powers were to be exercised by the Congress they did not intend, nor did they, to use an expression, "hog tie" themselves or lose some of these powers in the transmission so that the will of the people of the States with regard to this matter can not be effectuated through the Congress and the legislatures of those States. We are dealing with the question of power now. This is not a naval proposition. Congress enacted the Wilson bill. When you examine the Wilson bill and examine this bill you will find that in principle, in policy, and in language they are almost identical. I shall incorporate the Wilson bill in my remarks at this point and also the bill under consideration.

"THE WILSON BILL—LAWS RELATING TO INTERSTATE SHIPMENT OF INTOXICATING LIQUORS

"Commerce in liquors between the States

"An act to limit the effect of the regulations of commerce between the several States and with foreign countries in certain cases

"Be it enacted, etc., That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory or remaining therein for use, consumption, sale, or storage therein shall, upon arrival in such State or Territory, be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers to the same extent and in the same manner as though such liquors or liquids had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

"Approved, August 8, 1890."

The bill under consideration:

"Be it enacted, etc., That all goods, wares, and merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners, except paroled convicts or prisoners, or in any penal and/or reformatory institutions, transported into any State or Territory of the United States and remaining therein for use, consumption, sale, or storage, shall upon arrival and delivery in such State or Territory be subject to the operation and effect of the laws of such State or Territory to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in such State or Territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

"Sec. 2. This act shall take effect two years after the date of its approval."

I want now to direct your attention to the decision of the Supreme Court on the Wilson bill. There are just two passages in that decision that I wish to direct your attention to. The Supreme Court in passing upon the Wilson bill said, in regard to Congress enacting the legislation:

"In so doing Congress has not attempted to delegate the power to regulate commerce or to exercise any power reserved to the States, or to grant any power not possessed by the States, or to adopt a State law."

And here is another significant statement of the Supreme Court with reference to the Wilson bill, and this is common sense and good law:

"The framers of the Constitution never intended that the legislative power of the Nation should find itself incapable of disposing of a subject matter specifically committed to its charge."

That is the point I make.

The court said further:

"The manner of that disposition brought into determination in this record involves no ground for adjudging the act of Congress inoperative and void."

If that was true as to the Wilson bill, it is true as to this bill.

The question here is not whether convicts should labor or not; it is not a question whether the several States should permit the labor of their own convicts to come into competition with free labor within their respective borders; it is not whether a sovereign State, willing to receive the products of the convicts of other States, may not do so if it wants to. It is solely a question as to whether a State shall be compelled to receive and have sold within its borders articles of commerce which its own citizens could not sell under the same circumstances. It is a question whether an outsider, over the protest of a sovereign State, shall be permitted to enter it with his goods and to defy and hold in contempt the public policy which the people of that State may have fixed for their government. The question is, Shall Members of Congress, professing to believe in the right of a State to govern its domestic affairs and fix its police policies, deny to the State the right to do it? That is the question. That is the only question.

REPORT OF THE FEDERAL TRADE COMMISSION AND CEASE AND DESIST ORDER OF THAT COMMISSION AGAINST THE COMMONWEALTH MANUFACTURING CO., A PRISON CONTRACTOR

UNITED STATES OF AMERICA BEFORE FEDERAL TRADE COMMISSION

At a regular session of the Federal Trade Commission, held at its office in the city of Washington, D. C., on the 25th day of June, A. D. 1927.

Present: C. W. Hunt (chairman), William E. Humphrey, Abram F. Myers, J. F. Nugent, Edgar A. McCulloch, commissioners.

In the matter of Commonwealth Manufacturing Co. and Harry Dushoff, doing business under the trade names and styles Harry Dushoff & Co. and Chicago Manufacturing Co. Docket No. 1367. Findings as to the facts and conclusion.

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served an amended complaint upon the respondents Commonwealth Manufacturing Co., a corporation, and Harry Dushoff, doing business under the trade names and styles Harry Dushoff & Co. and Chicago Manufacturing Co., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. Respondents having failed to file their answers herein to said amended complaint, hearings were had upon due notice thereof to respondents, and evidence and testimony were thereupon introduced in support of the allegations of said amended complaint before a trial examiner of the Federal Trade Commission theretofore duly appointed, upon which evidence and testimony respondents elected to stand without thereafter availing themselves of full opportunity which was given them to file briefs and present oral argument before the commission in opposition to the charges of said amended complaint.

Thereupon this proceeding came on regularly for decision; and the commission having duly considered the record and being now fully advised in the premises makes this its findings as to the facts and conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Commonwealth Manufacturing Co. is a corporation organized in July, 1921, under and existing by virtue of the laws of the State of Illinois, with its branch office and place of business in the city of Chicago in said State. Its business is and has been the selling and distributing of prison-made products to wholesale and retail dealers and consumers throughout the United States. Said products and the respective periods during which respondent corporation marketed the same are as follows: Men's shirts, sold and distributed at all times since the date of respondent corporation's organization as aforesaid; binder twine, sold and distributed during the years 1921, 1922, and 1923; and shoes, sold and distributed for about three years next preceding July, 1925. In addition to carrying on business under its corporate name part of respondent corporation's shirt business is and for more than three years last past has been conducted under the trade name and style of "Chicago Manufacturing Co." The authorized capital stock of said corporation is \$50,000, only \$5,000 of which has been issued and is outstanding, all of which outstanding stock is held by respondent Harry Dushoff, its president, except two shares, one of which is held by each of two individuals for the purpose only of enabling them to qualify as directors of the corporation.

PAR. 2. Respondent Harry Dushoff is an individual having his office and place of business in the city of Chicago, State of Illinois, and has been engaged ever since prior to July, 1921, in the business of selling and distributing to wholesale and retail dealers and consumers throughout numerous States of the United States prison-made shirts; and during the years 1921 and 1922 prison-made binder twine. He also has since the date of its organization managed and controlled the affairs, business, and policies of respondent corporation, Commonwealth Manufacturing Co. Respondent Dushoff conducted his said unincorporated business of selling and distributing shirts and binder twine under the trade name and style "Harry Dushoff & Co." to and until June, 1922. Thereafter and for more than three years last past he conducted, and is still conducting, his said shirt business under the trade name and style "Chicago Manufacturing Co."

PAR. 3. At all times in the course and conduct of said businesses, respondents Commonwealth Manufacturing Co. and Harry Dushoff solicited trade and orders for their products through and by means of circular letters, price lists, and similar trade literature, which they mailed from time to time to their customers and prospective customers throughout several States; and also through and by means of traveling salesmen, about 10 in number, whom respondents employed on a commission basis, and who on behalf of respondents called upon and solicited trade from customers and prospective customers throughout numerous States and offered for sale and sold said products of respondents. In distributing and supplying said products to their customers, respondents caused said merchandise to be transported in commerce from Michigan City, Ind., the place of manufacture, through and into other States of the United States, to the respective purchasers thereof in such other States; and in so carrying on their business respondents are and were at all times herein mentioned in direct active competition with many other persons, partnerships, and corporations similarly engaged in selling and distributing similar products in commerce between and among various States, particularly those States into which respondents sold and distributed their products.

PAR. 4. Said businesses of respondent corporation, Commonwealth Manufacturing Co., and respondent Harry Dushoff are conducted jointly and as a single unit by and under the active management and control of respondent Harry Dushoff. The place of business, equipment, and employees of respondent corporation and of respondent Dushoff are identical. They occupy office space of about 15 feet by 20 feet and employ

two clerical assistants besides aforesaid traveling salesmen. Only one set of books is kept of the businesses of both respondents.

PAR. 5. Throughout the operation of their binder-twine business during the years 1921, 1922, and 1923, as aforesaid, respondents' combined sales of such binder twine amounted to 18,000 to 20,000 pounds per year, which was sold and distributed by them to dealers, farm organizations, and farmers throughout several States, particularly the States of Kansas and Minnesota. At all times in the offering for sale, selling, and distributing of said binder twine to their customers respondent Harry Dushoff, trading under the trade name and style Harry Dushoff & Co., and respondent Commonwealth Manufacturing Co., acting under the domination, management, and control of respondent Dushoff, used and carried on such business with order forms, letterheads, billheads, shipping tags, and other business stationery containing the following representations set forth in large and conspicuous lettering, to wit:

"Harry Dushoff & Co., manufacturers and distributors of binder twine. Manufacturers and distributors of standard and sisal twine. Mills, Michigan City, Ind.

"Commonwealth Manufacturing Co., manufacturers and distributors of binder twine. Manufacturers and distributors of standard and sisal twine. Mills, Michigan City, Ind. Buy direct. Commonwealth Manufacturing Co."

In truth and in fact neither of said respondents has ever manufactured binder twine, and in carrying on said binder-twine business they were in fact dealers or middlemen, and not the manufacturers thereof. Said binder twine was manufactured by the State of Indiana in the Indiana State Prison, Michigan City, Ind., and with the labor of the prisoners there incarcerated. Respondents purchased said twine from the State of Indiana and resold and distributed same to their customers. The aforesaid statements and representations on respondents' letterheads, order blanks, billheads, shipping tags, and other business stationery were and are false, and their use as set forth above had the capacity and tendency to mislead and deceive purchasers of said twine into the erroneous belief that said respondents were the manufacturers of said twine and that in buying from said respondents they were buying directly from the manufacturer and thereby eliminating and saving the costs and profits of middlemen; and to thereby cause said purchasers to purchase said twine in such belief.

PAR. 6. The shoe business of respondent Commonwealth Manufacturing Co. was carried on for the space of about three years next preceding July, 1925, under the management, domination, and control of respondent Harry Dushoff. Throughout said period respondent corporation's sales of said shoes were made in the name "Commonwealth Manufacturing Co." to jobbers, department stores, and so-called Army and Navy goods stores throughout numerous States of the United States at the rate of from 50 to 60 pairs per day. In offering for sale, selling, and distributing said shoes respondent corporation used letterheads, invoices, order forms, shipping tags, and other business stationery containing the following representations in conspicuous lettering, to wit:

"Commonwealth Manufacturing Co. Manufacturers and Distributors. Shoe Department."

Neither of the respondents has ever been the manufacturers of shoes. The shoes dealt in by respondent corporation as aforesaid were manufactured by the State of Indiana in the Indiana State Prison, Michigan City, Ind., and with the labor of prisoners there incarcerated by said State. Said shoes were sold by the warden of said prison to respondent corporation, which in reselling and distributing them to its customers as aforesaid was in truth only a dealer or middleman. The use by respondents of said corporate name Commonwealth Manufacturing Co. with or without said other representations and assertions, all as set forth in this paragraph above, was false and misleading and had the capacity and tendency to mislead and deceive the purchasing public into, and to cause said purchasers to buy said shoes in, the erroneous belief that respondent corporation was the manufacturer thereof and that in so buying from respondent corporation they were purchasing said shoes directly from the manufacturer and thereby eliminating and saving the costs and profits of middlemen.

PAR. 7. In carrying on and conducting said shirt business respondent Dushoff, trading under the name and style of Chicago Manufacturing Co., and respondent Commonwealth Manufacturing Co., acting under the management and control of respondent Dushoff, sold and are selling jointly from 40,000 to 50,000 dozen shirts per annum. At all times in conducting said shirt business both respondents held themselves out to their customers and prospective customers as the manufacturer of said shirts, and offered for sale, sold, and distributed said shirts in the corporate name "Commonwealth Manufacturing Co." and in the trade name "Chicago Manufacturing Co."; and in circular letters, pamphlets, leaflets, letterheads, billheads, invoices, and other business stationery respondents caused the following representations and assertions to be set forth prominently and conspicuously:

"Commonwealth Manufacturing Co. Manufacturers. Shirt department. Factory, Michigan City, Ind."

"Chicago Manufacturing Co. Not incorporated. Manufacturers of work shirts."

"Special offer of high-grade work shirts at a low price. Buy direct from the manufacturer, \$6.50 per dozen, f. o. b. factory. Commonwealth Manufacturing Co."

Said shirts sold by respondents were manufactured by the State of Indiana in the Indiana State Prison, a penal institution of said State located at Michigan City, Ind. In a factory building owned by it, and within the walls of said prison, said State operates a shirt factory under its direct and absolute control and with the labor of the prisoners there incarcerated. Said State is and has been for many years last past engaged in manufacturing, in and by such factory and with such prison labor, large quantities of shirts. Said shirts are, in accordance with the laws of the State of Indiana, used primarily to supply the needs of the public institutions of the State of Indiana, numbering some 22. The surplus of the shirts so manufactured, above and beyond the requirements of said State institutions, is sold by the warden of said State prison in the open market, and the shirts dealt in by respondents are and were sold and supplied by said warden to respondents from such surplus. Respondents pay said State for their shirts a certain stated price in cash and furnish some sewing machines, which the State uses to augment its other manufacturing machinery, and also furnish some cloth and trimmings, which are manufactured by the State into shirts. Neither of respondents is nor has either ever been the manufacturer of the shirts sold by them as aforesaid. They do not own, control, or operate a shirt factory.

PAR. 8. Respondents' representations that they are the manufacturers of the shirts sold by them and their use of the names "Commonwealth Manufacturing Co." and "Chicago Manufacturing Co.," with or without said other statements and representations, all as set out in paragraph 7 hereof, are and were false and misleading and have and had the capacity and tendency to mislead and deceive the purchasing public into, and to thereby cause them to purchase said shirts in, the erroneous belief that respondents are and were the manufacturers of said shirts and that in buying from respondents they are buying and obtaining said shirts directly from the manufacturers thereof, thereby eliminating and saving the costs and profits of middlemen.

PAR. 9. The prison-made shoes dealt in and sold by or in the name of respondent Commonwealth Manufacturing Co., as aforesaid, were a type of heavy work shoe simulating in general appearance shoes which have for many years been used by and manufactured under the supervision and specifications of the War Department, a branch of the Government of the United States, large quantities of which were sold to the public by the Government after the close of the World War as surplus Government property, and which shoes so sold have been and still are quite extensively marketed as such among the trade and to the consuming public throughout the United States. Said shoes sold as surplus Government property are in great demand by the consuming public and are generally considered by the consuming public to be of high quality, sold at low prices, and to have been made for and under the supervision and specifications of the United States Government. Respondent corporation's shoes were never owned by or manufactured for or under the supervision or specifications of the United States Government but were greatly inferior to such shoes in quality and workmanship. Said shoes of respondent corporation when sold by it to its customers, and when purchased by the consuming public in the ordinary course of trade, contained branded and embedded on the soles thereof the letters "U. S." in large, conspicuous type surrounded by an outline of what is commonly known and recognized by the public as the shield of the United States, below which in smaller letters and less conspicuous appeared the brand "Munson Army Last." With the full knowledge and consent of respondents said brands and words were placed on the shoes under the direction of the warden of the Indiana State Prison, Michigan City, Ind., for the purpose of aiding the salability of said shoes to the consuming public. Said shoes were invoiced and billed by respondent to its customers as "United States Army Munson Last Work Shoes."

PAR. 10. The use by respondent corporation in connection with its shoes of the letters "U. S." under the circumstances and conditions set forth in paragraph 9 above was misleading and had the capacity and tendency to mislead and deceive the consuming public into, and to thereby cause them to purchase said shoes in, the erroneous belief that same were genuine Army shoes manufactured under the supervision and specifications of the United States Government. In selling its shoes with said brands, as set forth above, respondent corporation thereby placed in the hands of retailers the means by which such retailers could, with or without further representations, pass off said shoes to the consuming public as genuine Army shoes made under the supervision and specifications of the United States Government.

PAR. 11. Among the competitors of respondents mentioned in paragraph 3 hereof are many who manufactured and sold shoes, binder twine, and shirts in competition with respondents and who rightfully and truthfully represented themselves to be the manufacturers of such products. There are also many among said competitors who did not manufacture the shirts, binder twine, or shoes which they sold in competition with respondents and who in no wise represented themselves to be the manufacturers of said products. There are likewise many of said competitors who sold in competition with respondent corporation

and under truthful representations certain shoes which were and certain other shoes which were not owned by or manufactured for or under the supervision and specifications of the United States Government. The false and misleading practices indulged in by respondents as hereinbefore set forth tend to and do unfairly divert trade from and otherwise injure the business of said competitors and are to the prejudice of the public.

CONCLUSION

The acts and things done by respondents under the conditions and circumstances described in the foregoing findings are to the injury and prejudice of the public and respondent's competitors, and are unfair methods of competition in interstate commerce and constitute a violation of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

By the commission.

C. W. HUNT, *Chairman*.

Dated this 25th day of June, A. D. 1927.

Attest:

OTIS B. JOHNSON, *Secretary*.

This proceeding having been heard by the Federal Trade Commission upon the amended complaint of the commission, the testimony and evidence; and the commission having made its findings as to the facts with its conclusion that respondents have violated the provisions of the act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,"—

It is now ordered, (1) That respondent corporation, Commonwealth Manufacturing Co., its officers, directors, agents, and employees, and respondent Harry Dushoff, his agents, representatives, and employees, cease and desist from carrying on the business of selling shirts, shoes, binder twine, or other merchandise in commerce among the several States of the United States under a trade name or corporate name which includes the word "manufacturing," or a word or words of like import, and from making representations through advertisements, letterheads, order forms, billheads, or other business stationery, or by any other means whatsoever in connection with such business; that respondents, or either of them are the manufacturers of said products, unless and until such respondent actually owns and operates, or directly and absolutely controls a factory in which the products so sold and distributed by such respondent are manufactured.

(2) That respondent corporation, Commonwealth Manufacturing Co., its officers, directors, agents, servants, and employees cease and desist from selling and distributing in interstate commerce any shoes which are branded or labeled with the letters "U. S.," or with letters or words of similar import, or with a simulation of what is commonly recognized as the shield of the United States, or any other device of similar import, unless all of said shoes so sold and distributed were made for and under the supervision and specifications of the Government of the United States.

It is further ordered, That respondents Commonwealth Manufacturing Co. and Harry Dushoff shall within 60 days after the service upon them of a copy of this order file with the commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist hereinbefore set forth.

By the commission.

OTIS B. JOHNSON, *Secretary*.

STATEMENT OF SENATOR HARRY B. HAWES BEFORE THE AMERICAN PRISON ASSOCIATION FIFTY-EIGHTH ANNUAL CONGRESS, KANSAS CITY, MO., OCTOBER 10, 1928

REFORM OF PRISON CONDUCT IN FUTURE RESTS UPON OFFICIALS—PASSAGE OF BILL NOW BEFORE UNITED STATES SENATE GIVES EACH STATE THE RIGHT TO WORK OUT PENAL PROBLEM

As coauthor in Congress of what is known as the Hawes-Cooper bill (S. 1940), it is a great pleasure and a great opportunity for me to discuss pending national legislation.

Upon the prison officials rests a great responsibility. In many ways I know of no officials in our civic life who have a greater one. There is an emergency presented to your body in the facts as they exist to-day.

I predict that at the coming short session of Congress there will be passed by the United States Senate with an overwhelming vote a bill calculated to open the way for great national prison reform.

It is the impending passage of this bill which presents to the prison officials of the Nation the immediate necessity of looking to the future conduct of American penal institutions.

For some 30 years far-sighted men among prison officials, as well as legislators, have sought to bring about betterments in prisons. Steps have been taken and much advancement has been made in the last quarter of a century. The whipping post and the slave driver are largely memories in our penal institutions. To a large extent you have obliterated inhuman cruelties and have established civilized conditions for the unfortunate inmates of these institutions.

I am not unmindful of all these advances. I will not recount them, but during all the period that this work has been going on there has existed a legal impediment to the completion of your betterment work.

THE LEGAL SITUATION

Many years ago because of popular criticism, the contract system, as it was formerly known, was abolished in many States as the first great step in prison reform. The public objected to the exploitation of the unfortunate criminal for private profit. To a large extent, therefore, the inhumanities of the old contract system have disappeared, but the contractor himself has not disappeared. The exploitation of prisoners is an easy road to wealth. At least it has been so. Many men of reasonable affluence owe their success to this system of penal servitude. It is not an easy matter to get rid of them. In many instances they have power and influence. They have money, and there is always a legal loophole through which to crawl. And so it was discovered that while popular disgust with the old contract system made it necessary that the system be abolished, it was also determined that under the Federal Constitution the regulation of interstate commerce rests with Congress.

Progressive States enacted legislation under which the prisoners of these States were not permitted to manufacture articles to be sold upon the open market. Other States did not enact such laws. Some enacted regulatory laws. The public-account system was established in some; the piece-price system in others, and the more progressive enacted the State-use system.

It was immediately found that what one State might do in order to protect itself from the prison contractor by refusing its own prisoners the right to manufacture goods for public sale, did not end the system at all, even for that State.

In Ohio, New Jersey, and New York, for instance, the prisoners of these three States are not permitted to manufacture products for sale upon the open market. Nevertheless, prisoners of some other States may manufacture articles for public sale, and actually do manufacture articles for public sale, and these articles are sent into the markets of Ohio, New York, and New Jersey, and each of the three States is powerless to interfere. It is not a matter of opinion, it is a matter of court decision. The court has held that Congress alone can regulate the matter of interstate commerce in this regard. The result is that to-day over the entire United States we have prison contractors still growing wealthy out of the labors of criminals, contracting for the sale of articles made by prisoners, taking these articles at a ridiculously low figure and sending them into legitimate markets often misbranded, or not branded, to be sold at a price just enough below the market, destroying that particular market and the private industry attempting to serve that market.

A few years ago an attempt was made to change this situation, and it was proposed that Congress enact legislation divesting prison-made products of their interstate character under certain conditions.

PRISON ASSOCIATION ACTIVITIES

As far as I have been able to learn, the National Prison Congress was organized in 1870 by President Rutherford Hayes.

In the declaration of principles of the National Prison Congress of that year I find the following resolution:

"While industrial labor in prisons is of the highest importance and utility to the convict, and by no means injurious to the laborer outside, we regard the contract system of prison labor, as now commonly practiced in our country, as prejudicial alike to discipline, finance, and the reformation of the prisoner, and sometimes injurious to the interest of the free laborer."

This organization later became the American Prison Association.

I have found the following resolution as of the date of October 20, 1919:

"Whereas the question of prison labor seems as yet to be an unsolved problem, though showing progress by discussion and by practical experiments:

"Resolved, That the special committee on prison labor be continued and that we reaffirm our disapproval of the lease and contract system of employing prisoners; be it further

"Resolved, That we commend the advancement made by the war labor policies board by proposing a program for the sale of such prison-made goods to the Government as are manufactured or produced under State control by prisoners who are paid the prevailing rate of wages less maintenance. We recommend the continuance of this policy following the proclamation of peace as enunciated in our original constitution, in the following language:

"While industrial labor in prison is of the highest importance and utility to the convict and by no means injurious to the laborer outside, we regard the contract system of prison labor as now commonly practiced in our country as prejudicial alike to discipline, finance, and the reformation of the prisoners and sometimes injurious to the interest of free labor."

And under date of October 21, 1926, is the following resolution adopted by this body:

"Idleness in prison, as elsewhere, is destructive of morality, discipline, and good administration. Prisoners should therefore be employed; this as much in the interest of the public as the prisoner. Every State should solve its own prison-labor problem. While systems

of prison industry must necessarily vary, from State to State, the following fundamental considerations should obtain in any system:

"1. The work should be such as to teach the prisoner some self-sustaining occupation.

"2. It should be so arranged as to interfere as little as possible with free industry.

"3. Supplying the needs of the State and its political divisions is a perfectly defensible utilization of the labor of State charges.

"4. While it is realized that the prisoners owe the State the products of their labor, it is nevertheless clear that better and more production can be secured, lessons of thrift, perseverance, and self-reliance more readily taught, and the public better protected through the training for citizenship of the prisoners if a wage system properly safeguarded be installed in the prisons.

"5. Prison industries should be conducted under the best modern business standards of supervision and direction, including cost accounting, up-to-date machinery and equipment, clean and healthful surroundings, and workmen's compensation.

"6. Due consideration should be given to colony care for certain classes of prisoners to afford out-of-door activities."

SITUATION IN A NUTSHELL

The members of your organization are too well versed in the facts in connection with prison labor to require any discussion by me at this time. There has been much misrepresentation of these facts. The contractor has not been idle during the years in which reform has been sought. Honest men have been misled. Facts have been distorted. Motives have been impugned, but not even the contractor with all his influence and power has been able to stem the tide in favor of this character of legislation.

Last year the Hawes-Cooper bill was introduced in the Senate by myself and in the House by Mr. COOPER of Ohio, and it was found that back of this measure there were three great elements in our American life: First, the American Federation of Labor, which sought to protect its members from competition with prison labor; second, the General Federation of Women's Clubs, interested only in removing from the conduct of the prisons the influence of the prison contractor and placing the prisoner under State control, so that his labor may be coordinated with his reform; third, the manufacturers of the Nation, representing private capital invested in legitimate business, which has suffered at the hands of the contractor through ruinous competition in prison-made goods.

THE RESULT SPEAKS FOR ITSELF

Extensive hearings were held in the House and in the Senate on this bill. Every opportunity was given the opposition to present its views. The prison contractor did not openly appear. Honest prison officials were there, who stated the bill would make it very difficult for them to conduct their penal institutions profitably because it would probably make impossible the sale of prison products in the open markets and result in idleness among the prisoners. Prison officials were heard by both committees, and the proponents of the measure, representatives of the American Federation of Labor, the General Federation of Women's Clubs, and the manufacturers were heard. The men on these committees represented some 25 States. In the House the bill was reported favorably with but one dissenting vote. In the Senate the committee did likewise.

Any man who examines the vote in the House of Representatives on this bill will understand the widespread approval of the measure. The vote appears in the CONGRESSIONAL RECORD. The bill was passed on May 10, 1928, by a vote of 303 to 39. An analysis of this vote discloses the following:

The Representatives of 32 States cast a solidly affirmative vote for the bill, and in some of these States prisoners are at work making products which are sold by prison contractors in the markets of other cities. Forty States in all supported this legislation. Only six delegations voted solidly against the bill. There were only two States in addition to those six where the majority of Congressmen voted against the bill. The population of the congressional districts of the 39 Congressmen who voted against the bill was 9,500,000 as against the 118,000,000 population of the United States.

In other words, those voting against the bill represented 8 per cent of the people of this country. Politics played no part in the passage of this bill by the House. Democrats, Republicans, Conservatives, and Progressives united in its support. In New England, where a great deal of opposition to this measure springs as a result of a large sale of products through prison contractors, the Representatives of States with a population of 4,620,000 voted for the bill, while those voting against the bill came from States with a population of 2,780,000. In other words, in the House vote on this measure, even in New England, where the opposition was really the strongest, 60 per cent of the population of New England was represented by men who voted for the bill.

SITUATION IN THE SENATE

This bill will pass the United States Senate and will be signed by the President.

There are not more than 20 dissenting votes in the United States Senate. There are more than 60 favorable votes. The public is aroused.

The prison contractor must go. The present subterfuge under which he is working has been disclosed. The markets are suffering at his hands. The prisoners are not benefited by his services. The men and women who labor for a daily wage find themselves in competition with prisoners. The system is archaic; it is wrong; it must be stopped.

The bill would have passed at the last session were it not for a filibuster which began against it at the last moment and which was made possible by the congested Senate calendar. The opponents of the measure at the time frankly admitted that its passage could probably not be blocked at the coming session. The proponents have no doubt as to its passage.

WHAT THE BILL DOES

All sorts of things have been stated about this simple bill. It has been called unconstitutional, although no brief of a serious character has ever been presented against its constitutionality. It has been stated that it will result in idleness, although many great experts on criminology and penal conduct appeared before the committee to deny this. It has been stated that it does many things which it does not do and which the men from 25 States who heard the testimony in this case decided it did not do. The plain fact is that the Hawes-Cooper bill makes it impossible for the prison contractor to hide behind the legal technicalities of Federal legislation.

The bill simply says that when prison products are sold in any State they must be sold under the laws of that State. At the present time they are not sold under the law of that State, but in any way the prison contractor decides that they shall be sold. This bill does not interfere in any way with the legislation of any State. It does not coerce any State into the passage of any legislation. It does not invalidate any State legislation.

In Indiana, for instance, if prison officials and the Indiana Legislature decide that prisoners may be used in the manufacture of products to be sold on the open market, prisoners may be so employed. These products will not be denied the facilities of transportation. When manufactured they will be placed upon a railroad train and sent to any market in the United States, but when they arrive at that market they must be sold in accordance with the laws of the State in which they are sold. In other words, they must be sold just as any other product must be sold. They can not be misbranded, mislabeled, or subjected to any other form of deceit or fraud.

The mention of Indiana recalls a very interesting phase of the Senate hearings on this bill. It was disclosed that fake Federal stamps were being placed on shoes manufactured in the Indiana prisons. These shoes were sold in the open market of other States falsely branded, falsely labeled. The entire sale was a fraud and a deceit. It was so declared by the Federal Trade Commission. It was discovered that in the very State where these fraudulent practices were going on the State law of that State prohibited the sale of prison products on the open market. Of course, when we inquired concerning this we were told the law was what they called a "dead letter." Very naturally it was a "dead letter," and all such laws under conditions as they now exist are "dead letters," because no State under present conditions can protect itself from the prison products of another State, and therefore a law protecting a State from its own prison labor is useless.

OFFICIALS' RESPONSIBILITY

The entire record of the hearings before the House and Senate is available to every member of your prison organization. All the facts concerning prison labor are available to your organization. All of the theories of prison conduct under the Hawes-Cooper bill are available for your study and your consideration. The proponents of this legislation, the American Federation of Labor, the General Federation of Women's Clubs, and the manufacturers of the Nation, have openly and repeatedly stated that they will assist prison officials in bringing about the reform made possible by the Hawes-Cooper bill. You will have much aid and wise counsel is available. Your own experts and experts from other fields may be called in, and as the bill will pass with what is known as a 3-year clause, you will have ample time to readjust your prison affairs to meet the new order of things as established by this legislation.

You might just as well meet the situation squarely. The advisability of this legislation is no longer in question. This bill will become a law. The prison contractor, as at present constituted, is to be removed as a factor in our prison conduct. The prison contract system will be abolished. The day of subterfuge is at an end, and you who have the problem of the conduct of these institutions before you should take steps at once to meet the new responsibility and the new system.

In some States the problem will not be difficult. In others, readjustments will have to be made. New systems will have to be inaugurated. New industries established to meet State needs, and reorganization will have to take place in prison management.

This legislation has been before Congress for some 20 years; you are, of course, fully acquainted with what it will mean to you. In the respective States your prison officials will know their own problems and will know how to meet them. The public in those States will look to you for the proper reorganization of your institutions along the lines which the public, through Congress, has already approved.

The time has come for counsel, cooperation, and coordination. Opposition to the new system will be useless. As prison officials you should not be misled.

Mr. BRUCE. Mr. President, is there any proposition pending now? There is a subject with regard to which I should like to make a few observations.

The PRESIDENT pro tempore. The Senate is acting under general orders, discussing the calendar under Rule VIII. The Senator from Missouri was recognized to ask unanimous consent for the insertion of certain papers in the RECORD. That having been ordered, it is the pleasure of the Senate to determine what procedure it will follow.

Mr. BLEASE. Mr. President, on the subject now before the Senate to which the Senator from Missouri [Mr. HAWES] has referred, I ask unanimous consent to have printed in the RECORD a telegram from Leslie Rudolph, warden of the Missouri Penitentiary, a telegram from the Virginia State Prison Board, of Richmond, Va., a telegram from George C. Erskine, president of the American Prison Association, a letter from the Indiana Truck Corporation, of Marion, Ind., and a protest signed by the wardens and superintendents of numerous prisons, all in opposition to the bill. I ask unanimous consent that they may be printed in the RECORD at this point.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The matter referred to is as follows:

JEFFERSON CITY, MO., May 23, 1928.

Hon. COLEMAN L. BLEASE,

Senate Office Building, Washington, D. C.:

Missouri Prison Board earnestly protest against enactment of Hawes-Cooper prison labor bill and asks you to consider fact that abolition of prison industries will result from this law and will cost millions to taxpayers. Will increase Missouri taxes one and one-half millions per year and create serious problems of handling our 3,800 convicts.

LESLIE RUDOLPH,

Warden Missouri Penitentiary.

RICHMOND, VA., May 20, 1928.

COLE L. BLEASE,

United States Senate, Washington, D. C.:

Hawes bill 1940 defeat urgently requested. Bill detrimental to taxpayers, penal institutions, inmates, and their families. Proponents have not offered constructive plan to completely occupy all inmates. States that have had State use for number of years still have many idle. This bill will indirectly place many in idleness. Not humane thing to do. Believe, as public officials, our duty to express our strongest opposition.

VIRGINIA STATE PRISON BOARD.

CHESHIRE, CONN., December 13, 1928.

Senator C. L. BLEASE,

Washington, D. C.:

Practical penologists throughout the country believe passage Hawes-Cooper bill contrary to wise public policy, and will very likely be found unconstitutional.

GEORGE C. ERSKINE,

President American Prison Association.

INDIANA TRUCK CORPORATION,

Marion, Ind., May 19, 1928.

Senator COLEMAN LIVINGSTON BLEASE,

Senate Office Building, Washington, D. C.

DEAR SENATOR BLEASE: The passage of the Hawes-Cooper bill virtually stops the manufacture of prison-made goods, and from some angles might be good legislation.

The bill should not pass in its present form, however, as no consideration is given to the institutions now engaged in this work.

If it is the general opinion that these institutions should get over on the so-called State-use system, their goods and wares to be absorbed by other State units supported with taxpayers' money, it can not be done on a 2-year notice. It takes time to build up a distributing system in any business, and you should extend that time to five years, at least.

To turn these goods made in these prisons over to other institutions supported by taxpayers' money within the State would not absorb 10 per cent of the production ability of our present prison population, and it would therefore seem perfectly proper to permit the sale and distribution of these products to any institution in the United States that is supported with tax money.

As a matter of fact, this whole proposition should be surveyed by the Director of the Budget, a study made by his department on the various kinds of materials made in all our State prisons, and the various Federal Government departments should secure their supplies from these institutions.

By proper distribution of prison-made products to the Federal Government departments and to all other institutions throughout the United States supported with tax money, a program might be worked out whereby the men in all our prisons would be employed.

The prison population throughout the country has doubled during the past 10 years, and legislation to provide work for inmates should be instituted rather than legislation to stop what work is now going on. Stopping the work simply increases the tax burden. Furthermore, it is an economic loss to permit men to sit idly in a prison cell, to say nothing of the demoralizing effect on the men.

We are dealing with people serving sentences which sooner or later returns them to civil life, and they should go out of prison better fitted mentally to make good citizens. You can not help them in this respect except by providing legislation that keeps them employed.

Yours very truly,

INDIANA TRUCK CORPORATION,
H. K. YORK, Vice President.

A PROTEST AGAINST THE PASSAGE OF HAWES-COOPER BILL—HOUSE BILL No. 7729 AND SENATE BILL No. 1940

To Members of Congress:

We respectfully petition you not to pass Senate bill No. 1940, introduced by Senator HAWES of Missouri, nor H. R. No. 7729, introduced by Representative COOPER of Ohio.

In our deliberate judgment these acts are not only unnecessary, unwise, and unconstitutional, but if passed will destroy the penal system built up in a large majority of the States of the Union, after years of experimenting with different systems and after the expenditure of millions of dollars by the various States.

In the Southern States cotton, grain, sugar cane, and livestock are produced on penal farms; in others, turpentine and lumber are produced by convict labor; in others granite and marble are quarried and dressed, and agricultural limestone is quarried and crushed by convict labor; in Missouri and other Central States sheep, hogs, and cattle are raised and slaughtered on penal farms and the surplus sold; in Oregon flax raised on farms is processed by convict labor; in many States fruits and vegetables are raised and canned on penal farms and gardens; in the great wheat-growing States of Minnesota, Wisconsin, Kansas, Indiana, Oklahoma, Missouri, and the two Dakotas for a great many years blunder twine and farm implements have been manufactured by convict labor and sold to the farmers of those States; in other States scrub brushes, rat traps, rag rugs, and rag carpets are made by the criminal insane; in others work shirts, work clothing, overalls, work shoes, brooms, and mops are made by convict labor; in a few States coal is mined from State-owned coal mines by convict labor.

In some States, juvenile offenders, male and female, are committed to houses of correction, schools of reform, orphanages, or convents, and are employed making knit goods, embroidery, baskets, books, and a variety of other wares.

The effect, if not the purpose, of the Hawes-Cooper bill is to utterly destroy the market for all these "goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, or in any penal or reformatory institutions."

THE HAWES-COOPER BILL UNNECESSARY

There have been practiced in the United States in the past 130 years, six systems of prison labor, namely: The lease system, the contract system, the piece-price system, the public account, the State-use system, and the public works and ways system.

Each system has and has had its advocates and critics, each system has both its advantages and disadvantages. The two systems which encountered the greatest amount of criticism have been the lease system and the contract system. The former in the earlier history of the Republic widely prevailed, but to-day it does not exist in any State; the contract system, which was formerly in extensive use, has gradually been superseded by other systems and now exists in but few States, as the following table compiled by the United States Bureau of Labor Statistics, Bulletin No. 372, January, 1925, page 17, shows:

Per cent of convicts that were employed at productive labor under different systems in different years as shown by reports of this bureau

System	Year				
	1885	1895	1905	1914	1923
Lease.....	26	19	9	4	-----
Contract.....	40	34	36	26	12
Piece price.....	8	14	8	6	7
Public account.....			21	31	26
State use.....	126	133	18	22	36
Public works and ways.....			8	11	19
Total.....	100	100	100	100	100
Per cent of all convicts that were employed at productive labor.....	75	72	65	(?)	61

¹ Public account, State use, and public works and ways were inseparably combined.

² Not reported.

The individual States can be trusted to correct any defect in their penal systems, as the above table shows, and it is unnecessary for the Federal Government to attempt to coerce the States to adopt a particular system of penal management or labor.

THE HAWES-COOPER BILL UNWISE

All but four States of the Union utilize a combination of several systems of labor to meet their prison problems and have found the practice satisfactory and in entire harmony with the public opinion and legislative policy of the respective States. To illustrate, most States utilize the State-use system in making clothing and shoes for inmates, the public works and ways system to build roads or public buildings, and utilize the surplus inmate labor under the public account, piece price, or contract system to manufacture binder twine, produce cotton or livestock, or clothing which is sold.

Under this system a great many penal institutions are self-sustaining, and many more are nearly so. Inmates are given a share of their earnings, which in many instances amounts for each inmate to as much as a dollar and a half a day, which he may use for the support of his family.

Under this combined system, which prevails in more than 40 States, idleness in prison has been reduced to a minimum, inmates have been trained to habits of industry and thrift, prisoners have been rehabilitated and restored to society to live normal lives, and the taxpayers' burden has been lessened.

If the pending bill is passed and the States are compelled to adopt exclusively the State-use system of convict labor, we believe it will produce idleness instead of employment in prisons, chaos instead of order therein, will entirely destroy our markets and prison industrial organization, and will necessitate huge annual appropriations in the respective States, which heretofore have been unnecessary.

THE OSTENSIBLE OBJECTIVE OF THE HAWES-COOPER BILL

The proponents of the bill contend that the product of convict labor should not be sold in competition with outside labor and that this competition is overcome by having convicts work for the State, or subdivisions thereof, or manufacture articles to be used by the State, its subdivisions, or State institutions. In other words, they seek to compel the adoption of the State-use system of convict labor in every State.

The fallacy of this position is obvious. Do not school desks, chairs, blackboards, public printing and book binding, road signs, and automobile tags made by convict labor compete with outside labor just as truly as binder twine, work shirts, or overalls? The question answers itself.

The Hawes-Cooper bill seeks to divest prison-made goods of their interstate character and to subject them to the law of the State into which such goods may be transported.

Many years ago there were passed in 10 or 15 States acts requiring all goods made in penal institutions or produced by convict labor to be labeled "convict made" before being exposed for sale, and, in addition to this, most of these acts required that a merchant handling convict-made merchandise must first obtain a license from the secretary of state before he be permitted to sell such merchandise, and the cost of the license varied from \$100 to \$1,000 per year. In addition to this, the merchants handling convict-made goods in some of these States were required to keep a list of the persons to whom such goods were sold and to file such lists with the secretary of state.

These acts applied to merchandise produced by convicts, whether in factory, on farm, in the dairy, or elsewhere. These acts were intended to make the selling of convict-made goods so burdensome and so expensive that no merchant could qualify to handle them.

In several suits brought to test the constitutionality of these acts, they were held unconstitutional, as in violation of the commerce clause of the Federal Constitution.

However, these old acts in these 15 or 20 States are still on the statute books and have not been repealed. The manifest purpose of the Hawes-Cooper bill is to revitalize these old acts and to make effective similar acts, the passage of which is to be pressed in several of the States with the same purpose and effect as the earlier statutes; that is, to destroy as far as possible all market for produce or merchandise created by convict labor.

If the Hawes-Cooper bill or any similar legislation is passed and held constitutional, each State might pass as unreasonable and as burdensome legislation affecting the sale of convict-made goods as the whims of any particular State legislature might dictate, with the result that the laws in all 48 States might differ very materially, so that any State producing or trying to sell its merchandise would have to know and comply with the law in 47 other different States.

THE HAWES-COOPER BILL UNCONSTITUTIONAL

Under the Constitution of the United States the power to regulate commerce between the States is lodged exclusively in Congress, and Congress has no power to delegate to the several States the right to regulate commerce among themselves.

The only right the several States have to interfere with or interrupt interstate commerce is in the exercise of the police power reserved to the States when the interstate commerce is immoral or fraudulent in its nature or dangerous to the public health.

The proponents of the Hawes-Cooper bill make no claim, and can not justly do so, that goods made by convicts are injurious to the morals or the health of the States.

The proponents of the Hawes-Cooper bill contend that the pending legislation is a copy of the Wilson Act of August 8, 1890, which divested intoxicating liquors of their interstate character and subjected such shipments to the laws of the State into which they should be shipped. If you will read the Wilson Act you will see that the pending bill is not a copy of it, but that the Wilson Act expressly provided, "All fermented, distilled, or other intoxicating liquors, or liquids, transported into any State or Territory * * * shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers."

We believe we express practically the unanimous opinion of prison wardens and prison boards in the United States in protesting against the passage of the pending bill or any legislation that interferes with the respective States in handling their domestic prison problems.

There are approximately 100,000 convicts in the United States, and not more than 50,000 of them are engaged in productive labor whose products are sold on the open market. It is estimated that the amount of goods produced by convicts and sold represents not more than one-twentieth of 1 per cent of the products of outside labor—the amount of the competition is infinitesimally small.

We have the feeling that the pending bill was inspired by and its passage urged by a highly organized minority of manufacturers, who have adopted this method of stopping prison-made manufacture in only one or two lines.

We have spent years in the effort to handle the penal problems of our respective States, and we hope that our earnest opposition to this bill will arouse you to the seriousness of the situation which would result from its passage.

Very respectfully,

Louis H. Putnam, director State institutions, Providence, R. I.; R. M. Youell, superintendent Virginia Penitentiary, Richmond, Va.; Henry K. W. Scott, warden State prison, Wethersfield, Conn.; John B. Chilton, warden Kentucky Penitentiary, Eddyville, Ky.; J. W. Wheeler, warden State prison, Boise, Idaho; A. H. Harrison, director penal institution, Jefferson City, Mo.; George Ross Pon, superintendent State prison, Raleigh, N. C.; A. F. Miles, superintendent Indiana Reformatory, Pendleton, Ind.; Joseph E. Robinson, chairman board of charities and correction, Frankfort, Ky.; Thomas P. Hallowell, warden Iowa State Prison, Fort Madison, Iowa; John J. Hannon, president board of control, Madison, Wis.; W. R. Bradford, director South Carolina Penitentiary, Columbia, S. C.; M. F. Conley, commissioner of prisons, Frankfort, Ky.; A. G. Macauley, director South Carolina Prison, Columbia, S. C.; Oscar Lee, warden, Wau-pua, Wis.; John L. Moorman, chairman of the board, Indiana Prison, Michigan City, Ind.; T. E. Lukens, board of prison administration, Boise, Idaho; Ralph Howard, superintendent Penal Farm, Greencastle, Ind.; Levin J. Chase, secretary board of trustees, New Hampshire; A. M. Scarborough, former president Warden's Association, Columbus, S. C.; A. L. Deniston, treasurer board of trustees, Michigan City, Ind.; H. M. Beard, superintendent Kentucky Reformatory, Frankfort, Ky.; James N. Pearman, superintendent South Carolina Penitentiary, Columbia, S. C.; J. J. Sullivan, warden, Stillwater, Minn.; J. S. Blitch, warden, Raiford, Fla.; Walter H. Daly, warden, Michigan City, Ind.; A. F. Roach, warden, Rawlins, Wyo.; James A. Lakin, chairman prison committee, Moundsville, W. Va.; J. N. Baumel, warden, Anamosa, Iowa; P. J. Brady, warden, Baltimore, Md.; J. I. Burnett, superintendent, Jefferson City, Mo.; E. T. Westerfelt, board of control, Lincoln, Nebr.

Mr. CURTIS. Mr. President, I understand one of the Senators desires to make a short speech on this subject this morning. I therefore ask unanimous consent that the unfinished business may be laid before the Senate.

The PRESIDENT pro tempore. Is there objection? The Chair hears none and lays before the Senate the unfinished business.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7729) to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases.

Mr. KING. Mr. President, the Senator from Maryland [Mr. BRUCE], before we adjourn, desires the floor for a little while, and I hope there will be no objection.

MULTILATERAL PEACE TREATY

Mr. BRUCE. Mr. President, I desire to make a few preliminary observations in relation to the so-called Briand-Kellogg peace pact. The subject is, of course, intimately connected with the reservations which were offered yesterday by the present occupant of the chair.

Mr. CURTIS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Kansas?

Mr. BRUCE. I do.

Mr. CURTIS. I did not hear the opening remark of the Senator; but if his speech is on the peace treaty it necessarily should be made in executive session. I do not want to move an executive session.

Mr. BRUCE. Still, I should think that my remarks might take such a range as to exempt them from that requirement.

Mr. CURTIS. I merely wanted to make the suggestion, and hope the remarks of the Senator may not call for an executive session.

Mr. BRUCE. I thank the Senator.

The PRESIDENT pro tempore. The Senator from Maryland will proceed.

Mr. BRUCE. Mr. President, if the face of grim-visaged war ever relaxes into a smile, it is, I am sure, when he reads some such empty, grandiose declaration as the Kellogg peace pact. As I see it, it is only in the great number of its signatories that it differs from the many treaties in which His Christian Majesty, His Most Catholic Majesty, or some other royal potentate has, in the past, plighted his solemn troth that he would never, so long as water ran or grass grew, wage war on some country with which his own country had lately been at war, and was soon to be at war again. To show how untrustworthy such engagements have ever been, we need go no further back than a few years ago, when one of the most powerful and enlightened countries on the globe—Germany—did not scruple, despite its explicit treaty obligation to respect the neutrality of Belgium, to open up with fire and sword, a pathway to France, across the violated soil of the former country. Then, as in a vast number of other similar instances, when a puissant and aggressive nation has found itself restrained by nothing stronger than treaty covenants from gratifying its lusts, the pact that was supposed to exempt Belgium from invasion was derisively tossed aside by Germany as a mere "scrap of paper."

If there is anything with which it would seem that the public conscience of the people of the United States should be sated, it is foolscap guaranties of peace between them and other nations. The benevolent instincts of the late William Jennings Bryan, when Secretary of State, fairly revelled in things of this sort, as we all know. Just as he fondly imagined that all that was necessary to keep men from drinking was to pass a law forbidding them to drink, so he appears to have thought that all that was necessary to keep nations from fighting was to induce them to enter into a little conciliation treaty with each other. He was not unlike the French poet, of whom Franklin tells us, who believed that if Franklin would only assist him to finish an epic poem against the English, General Howe would be off as soon as the poem appeared. Just how many conciliation treaties Mr. Bryan negotiated I do not remember; but it matters little, for a few dozen one way or the other would make no difference. I have, however, the authority of Mr. Kellogg, our present Secretary of State, for the statement that of these treaties 18 are still in force, and there is no reason why these 18 could not be multiplied at pleasure, for whoever heard of a modern nation declining to sign a peace pact that did not require it to disarm?

Even before Mr. Bryan became Secretary of State, his official predecessor, Mr. Knox, had tried his hand at a form of treaty which contained both conciliation and arbitration features, and, in 1923, the United States became a party to two conciliation treaties, one contracted at Washington on February 7, of that year, between it and the five Central American Republics, and the other contracted at Santiago on May 3, of that year, between it and 15 Latin-American countries. I might add the fact that the 21 American States, represented at the recent conference at Habana, of which 17 were members of the League of Nations, adopted a resolution unqualifiedly condemning war as an instrument of national policy in their mutual relations. Nor should we forget that France has recently reminded us that, in September, 1927, the members of the League of Nations adopted a resolution condemning aggressive war as an international crime; and this, notwithstanding the fact that all those nations had already, by becoming parties to the covenant of the league, even undertaken, under certain conditions, jointly to suppress aggressive warfare by force. In the light of all these international conventions and pronouncements, what real occasion is there for such a pacifist utterance as the Kellogg peace pact? If, after being visited with all this parchment opprobrium, the god of war is not by this time thoroughly ashamed of himself, there would seem to be but little likelihood of his ever being rendered so by another peace resolution. If the elemental passions that lurk in the human breast could be kept down by the benevolent aspirations merely of peace societies and founda-

tions, if battles waged by international ambitions and animosities were fought with paper pellets instead of leaden bullets, he might grow weary of his calling, and betake himself to some more honest and useful field of employment. But, constituted as human nature is, and conducted as war is, it can be confidently predicted that he will never do this until men cease to believe that they can exorcise the fell spirit of war by sonorous peace vaporings, as vain, when unattended by punitive sanctions, as the fires and religious processions with which human beings, in the Middle Ages, sought to subdue the baleful breath of the black plague.

Not only has the United States become a party to innumerable conciliation and arbitration pacts already, but it can truly be said that there is not one of them that was, or is, not invested with a practical value of which the Kellogg pact is totally devoid. They, at least, sought by specific conciliatory and arbitral processes, which, within certain limits are by no means ineffective, to stay the uplifted hand of war. And, if the resolution of the recent Habana conference, condemning war as an instrument of national policy, in which 17 members of the League of Nations joined, and the 1927 resolution of the members of the League of Nations, condemning aggressive war as an international crime, do not render the Kellogg pact wholly superfluous, it is only because the United States is actuated by a selfish desire to ignore any steps taken by the league, or participated in by some of its members for the purpose of keeping war under the control of human civilization. The Kellogg peace pact contains no provisions designed to give practical effect to its condemnation of recourse to war for the solution of international controversies, its renunciation of war as an instrument of national policy, and its abjuration of all settlement or solution of international disputes or conflicts except by pacific means. It creates no court, arbitral commission, or conciliation agency. It contains no sanctions. It suggests no means by which its pacific intentions can be made good. It is a mere brutum fulmen, a stab in the air, a futile gesture, one of those things that begin and end in smooth words. Even if this were not so, and it could justly be claimed that the Kellogg pact has at least the moral value of an agreement between the parties to it that they will not go to war with each other under any circumstances, that value has been completely, or all but completely, destroyed by the reservations from the operation of the pact, insisted upon by signatories to it other than the United States, to which Mr. Kellogg has given his full assent; sometimes under circumstances which would appear to render this assent totally repugnant to the plain wording of the pact itself.

Let us take up the reservations in detail: In article 1 of the Kellogg pact, the high contracting countries, which now number 59 actual or proposed signatories, declare that they renounce war as an instrument of national policy in their relations with each other. In article 2 they agree that the settlement or solution of all disputes or conflicts of whatever nature, or of whatever origin they may be, which may arise among them, shall never be sought, except by pacific means. Clearly, if literally construed, these sweeping, unconditional covenants against war include defensive as well as offensive wars, the obligations of such of the parties to the pact as are likewise parties to the covenant of the League of Nations, to resort to war under certain circumstances mentioned in the covenant for the enforcement of its objects and the obligations of such of the parties to the pact, as are likewise parties to the Locarno treaties, to resort to war, under certain circumstances, mentioned in those treaties for the enforcement of their provisions.

For illustration, the covenant of the league contemplates the possibility of recourse to war by its members in the event of an infraction of article 10 of the covenant, by which the members of the league undertake to respect and preserve, as against external aggression, the territorial integrity and existing political independence of all members of the league, or in the event of an infraction of certain obligations as respects arbitration or otherwise imposed upon the members of the league by articles 12, 13, and 15 of its covenant. For further illustration by the security pact, one of the Locarno treaties, Germany agrees with France and Belgium that they will mutually abstain from all armed aggression, and England and Italy guarantee this agreement.

By other Locarno pacts, France and Poland, in the one case, and France and Czechoslovakia, in the other, undertake to resist German aggression under certain circumstances. When pressed by France and other signatories to the Kellogg pact, Mr. Kellogg experiences no difficulty in saying that there is nothing in the pact which restricts or impairs in any way the right of self-defense, and that the nation whose territory is invaded is alone competent to decide whether circumstances require recourse to war in self-defense. Mr. Kellogg also finds no difficulty in saying that there is no incompatibility between the military obliga-

tions assumed by England and Italy, France and Poland, and France and Czechoslovakia in the Locarno treaties just mentioned, and the promise of each of those countries in the Kellogg pact to renounce war as an instrument of national policy.

Mr. Kellogg reasons that wars of self-defense are not embraced in the Kellogg pact because the right of self-defense is inherent in every sovereign and implicit in every treaty. He reasons that there is no inconsistency between the league covenant and the Kellogg pact, because the prevailing interpretation is that the military obligations imposed by the covenant are not mandatory but discretionary. And he reasons that there is no inconsistency between the Locarno treaties, just mentioned, and the Kellogg pact, because if all the parties to those treaties become parties to the Kellogg pact, resort to war by any one of them, in violation of one of those treaties, would, as matter of law, release the other parties to the Kellogg pact from their obligations under it and leave them free to carry out their Locarno commitments.

By such special pleading—I will not say quibbling—does that eminent lawyer, Secretary Kellogg, seek to prop up his pact as it staggers under its grievous load of crushing reservations. Another reservation from the operation of the Kellogg pact, to which Mr. Kellogg has apparently, if not actually, given his assent is the claim of Great Britain that there are—

certain regions of the world the welfare and integrity of which constitute a special and vital interest for its peace and safety, and that their protection against attack is to the British Empire a measure of self-defense.

What those certain regions are our British brothers, whose morning drumbeat circles the globe with one continuous strain of the martial airs of England, do not think it worth while to tell us. I should also add that the idea of Mr. Kellogg that the effect of a violation of the Kellogg pact by one of the parties to it would be to release the remaining parties to it from their obligations under it, with respect to the treaty-breaking State, did not originate with him but was likewise first suggested to him in the form of a reservation by the French Government; and then accepted by him.

The total effect of all these reservations in making the Kellogg pact an even feeble thing than it would appear on its face to be is almost too manifest for comment. They are so irreconcilable with the avowed purposes of the pact itself that it is not surprising that Mr. Kellogg should be so loath to have them fished out of the diplomatic correspondence, from which the pact finally emerged, and annexed as provisos to its text. A pallid abstraction, even when standing alone, that pact takes on an even more sickly and impotent aspect when read in the light of such debilitating reservations.

Since the day of ruthlessly barbarous conquerors like Genghis Khan and Tamerlane it would be hard to find a case in which any nation has ever waged a war that it did not claim to be a war of self-defense. In the life of a nation, as well as of an individual, it is often essential to self-protection that it should strike the first blow. If ever a war appeared to be an unprovoked one, it was the war waged by Germany upon us and our allies. If ever a country seemed to be indisputably the aggressor in a conflict, it was Germany in that war. But, though coerced into admitting in the Versailles treaty that she was responsible for the World War, Germany still insists that in invading France she was but countering an anticipated blow; and be her claim in this respect sound or unsound, not a few disinterested individuals who are not Germans have become convinced, after a careful study of all the documentary evidence relating to the initiation of the World War, that the responsibility of Germany for it is by no means certain.

Exclude from the Kellogg pact wars of self-defense or wars adjudged by the countries which initiate them to be such, wars conducted for the purpose of enforcing the covenant of the League of Nations, or the Locarno treaties, and wars carried on by Great Britain for the protection of "certain regions" which she has never named, and there would seem to be very little international warfare for the Kellogg pact to operate on.

The lack of reality which marks it is also, I hardly need say, accentuated by the failure which, if I am not mistaken, has overtaken all disarmament propositions, except those adopted by the Washington Naval Conference of 1921, since the creation of the League of Nations. The treaty of mutual assistance, signed in 1922 under the auspices of the League of Nations, came to nothing; so did the Geneva protocol, signed in 1924 under the same auspices; and so did the Geneva Naval Disarmament Conference of 1927, in which Great Britain, Japan, and the United States took part. After the adjournment of the Washington conference it was supposed that the reduction of battleships and other results effected by it, as between the

parties to it, namely, the British Commonwealth, France, Italy, Japan, and the United States, denoted a distinct gain for disarmament, but the ill feeling engendered between Great Britain and the United States by the miscarriage of the Geneva Naval Disarmament Conference demonstrated that, so far as the admirals and naval experts of Great Britain, the United States, and Japan at that conference were concerned, the Washington conference did nothing but shift naval rivalry from one field of activity to another.

Nor should we overlook the fact that the circumstances in which the Kellogg pact originated are well calculated to excite our distrust of its efficacy. It will be recalled that this pact began with a suggestion from M. Briand, the French Minister of Foreign Affairs, that France and the United States should enter into such a pact with each other only. The unbroken peace which for more than a century had existed between the two countries and the absence of all irritating contacts between them made one feel that M. Briand's proposal looking to eternal amity between France and the United States was not unlike an agreement between an elephant and a whale that they will never attack each other. How little France, in making M. Briand's proposal, was disposed to commit itself to anything but lip service in the cause of universal peace is not only shown by the fact that M. Briand's proposal was limited to France and the United States but by the fact that about the time that it was made France refused to take part in the Geneva Naval Disarmament Conference of 1927.

One of the most noteworthy of the reservations annexed to the Kellogg pact, of course, is that which declares that its violation by any one of the parties to it shall have the effect of releasing all the other parties to it from their obligations under it. This recalls the famous dialogue between Dogberry and the Watch:

DOGBERRY. You are to bid any man stand in the prince's name.

WATCH. How if a' will not stand?

DOGBERRY. Why, then, take no note of him, but let him go, and presently call the rest of the watch together and thank God you are rid of a knave.

A covenant renouncing war as an instrument of national policy may not be a bad thing but a covenant between the parties to the Kellogg pact reducing, to some reasonable extent, instruments of war, such as ships, warplanes, rifles, ordnance, caterpillar tanks, and the like, would be a far better thing. The only way really to renounce war is to renounce the instruments of war. There is nothing, however, to evidence the fact that national disarmament is keeping pace with the millennial yearnings for unweaponed peace, of which the Kellogg pact is the most grandiloquent expression. On the contrary, all the unceasing palaver that has gone on about national disarmament since the end of the World War has accomplished practically nothing. The last Armaments Yearbook of the League of Nations contains a detailed and authoritative survey of the armaments of the world at the present time and their cost.

This survey shows that the world is spending annually \$3,500,000,000, or about one-sixth of its aggregate annual income, on armies and navies; that it is keeping approximately 5,500,000 men under arms, or 1 soldier for every 300 civilians; and that it maintains 5,000,000 tons of naval shipping on the ocean, or 1 ton of naval shipping for every 13 tons of mercantile marine. Only a few days ago the United Press reported Mussolini as having just said to the Italian Parliament:

The truth is that the whole world is arming. The number of cannon and bayonets is increasing.

On the same day the United Press reported Lloyd George as having just said:

Chaotic international relations are leading the world toward war. Since we signed the Kellogg pact armaments are increasing.

Under these circumstances it is not surprising that Mussolini should also have sarcastically said in the course of the speech to which I have just referred, amid much laughter from spectators and deputies:

We all favor peace, and all of us signed for peace, the Kellogg pact, so sublime that we could characterize it as transcendental. If tomorrow similar pacts were in sight, we would hasten to sign. We should not, however, delude ourselves if others speak of peace.

President Coolidge, in his recent utterances advocating the ratification of the Kellogg pact, has played his part with decidedly more consistent gravity than Mussolini, but if the President has any real faith in the pacific virtue of that pact, why, pray, when Mr. Kellogg was cooing like a gentle dove, did the President set up such a jungle roar about more cruisers in his address on last Armistice Day? As I speak Bolivia

and Paraguay are clutching at each other's throats. The whole truth of the matter, I shrewdly suspect, is that the various peace projects that have been proposed by the Republican Party since the Lodge reservations kept us out of the League of Nations have been formed by that party far more for the purpose of subserving its own selfish aims and necessities than of advancing the cause of world peace. Realizing that ever since the shipwreck worked by those reservations there has been a powerful and widespread sentiment in this country in favor of our entry into the league, it has periodically cheated this sentiment with one deceitful peace lure or another. During the Harding presidential campaign the lure was the spectral association of nations which, with the election of Harding, disappeared like a ghost at cockcrow.

Then followed a profuse spawn of conciliation and arbitration treaties between the United States and Central and South American countries, which served to divert public attention from the larger peace movements of the world. Then followed our adhesion to the protocol of the World Court statute, so instinct with the spirit of arrogant reservation that Great Britain and other foreign powers, eager as they were to draw us into the World Court, felt that they could not accept our overture without a loss of self-respect.

And now comes along this anemic peace pact of our able and amiable Secretary of State, Mr. Kellogg, which is about as effective to keep down war as a carpet would be to smother an earthquake, but which, nevertheless, has worked up all the unsophisticated humanitarians of both sexes to a high state of excitement. When it shall, in its turn, have served its purpose, the Republican Party can confidently be expected to contrive another peace device equally plausible. If it does not, it will, if we may judge from recent press reports, not be for the want of the assistance of Hiram Evans, the supreme wizard of the Ku-Klux Klan, who, vexatiously mindful of the obligations that the Republican Party owes to the klan for its rabid assistance during the recent presidential campaign, is now asserting its right to shape the international as well as the domestic policies of that party.

I reach the conclusion, therefore, that as a direct, immediate agency for the repression of war the Kellogg pact has no practical value whatever. It is, as a weapon for such a purpose, *imbellis telum sine ictu*—that is to say, roughly, a weapon without a punch. Moreover, all such sanctionless resolves are open to the objection that they tend to foster the idea that peace is attainable by merely willing it, or by simply donning white robes and repeating over and over again in plaintive accents, "Peace! Peace! Peace!" Such an idea, if honestly carried to its logical consequences, could have no result except that of giving additional point to the old saying that it makes no difference to the wolf how many the sheep are.

The truth is, as I have so often said, there is no peace in the world, not even in our own domestic households, that is not commanded. In the last analysis, all peace rests on force. The fatal infirmity of most of the peace proposals of our time is their lack of all virile provision for their enforcement in the event of their being dishonored by some faithless State. No reasonable man imagines that the peace and order of any American city can be maintained unless they are properly policed. The same thing is true of the peace and order of any American State, or of the United States as a whole. The gunman, the robber, the thief, found in the bosom of even the most highly civilized societies, the large groups of men who, even in such societies, are deeply infected with socialistic, communistic, or other revolutionary ideas render the employment of the constable, the policeman, and the soldier indispensable for the preservation of social peace and political stability. If a person were to suggest that New York, Philadelphia, or Chicago should disband its police forces and rely wholly upon moral restraints, in one form or another, for the regulation of the criminal agencies which have made those cities such scandalous seminaries of crime in many respects, he would be set down as a madman or a fond old fool. Yet thousands of American men and women seem to think that international peace, the kind of peace that is perpetually threatened by the inherited animosities, the greed, the passions, and the rivalries of embittered or emulous States, and is the most difficult of all kinds of peace to be kept inviolate, need not be policed by anything except biblical texts and toothless peace pacts. Such was not the thought of the great Americans, Republican or Democratic, who were the chief inspiration of the peace movement in this country which led up to the establishment of the League of Nations and its court. It was of the League to Enforce Peace, a league formed before the creation of the League of Nations, that ex-President Taft was president. It was also before the creation of the latter league that Theodore Roosevelt used these words so truly characteristic of his practical intellect:

What is needed in international matters is to create a judge and then to put power back of the judge. The policeman must be put back of the judge in international law just as he is back of the judge in municipal law. The effective power of civilization must be put back of civilization's collective purpose to secure reasonable justice between nation and nation.

As we all know, Woodrow Wilson gave such a robust approval to all the provisions of the covenant of the League of Nations, including those which look to the exercise of military power in certain contingencies, that, on one occasion, he pronounced the guaranty in that covenant of the territorial integrity and existing political independence of all members of the league its very "heart."

Far removed indeed from the views of these great men are the pithless statements made by Mr. Kellogg in his address before the council of foreign relations, in the city of New York, on March 15, 1928:

The United States can not obligate itself in advance to use its armed forces against any other nation of the world. It does not believe that the peace of the world or of Europe depends upon or can be assured by treaties of military alliance, the futility of which as guarantors of peace is repeatedly demonstrated in the pages of history.

That is to say, applied to a concrete case, now in a state of acute inflammation, the statements expressed by Mr. Kellogg come to this: Bolivia and Paraguay are signatories to the Kellogg peace pact, renouncing war as an instrument of national policy and binding all its signatories to the obligation never to seek the settlement or solution of any kind of dispute or conflict between them except by pacific means. A dispute or conflict between Bolivia and Paraguay comes to a head just as delegates from those two countries, along with the delegates from other South and Central American States, are settling down in their seats at the pending Pan American conference in this city over which the spirit of the Kellogg peace pact is supposed to be brooding like a tranquillizing halcyon.

War between Bolivia and Paraguay appears to be imminent. The Bolivian delegates, forgetting to renounce the renunciation of war as an instrument of national policy to which Bolivia subscribes in the Kellogg peace pact, withdraw from the conference. The League of Nations, the only international agency in the world which has any real power of arresting by military or other means impending war between two nations, takes up the situation. Is Mr. Kellogg, then, finding that his peace pact is a mere puff of wind to notify the League of Nations that the United States can not only not undertake itself to interpose in the quarrel between Bolivia and Paraguay for the purpose of bringing hostilities between them to an end, but that, because of its time-honored Monroe doctrine, it can not permit the league to do so? Can anything be plainer than that under such circumstances the United States not only refuses to assume its share of responsibility for world peace, but selfishly refuses to permit civilized powers with more sagacious and generous ideas of international policy than its own to do so?

If we are to recognize our duty to make an effort in concert with the other great civilized commonwealths of the world to keep the scourge of war in check, to avert the tragic necessity of again sending our youth overseas to die in the lousy and blood-stained trenches of France, or some other land, and to avoid an addition to the oppressive burden of debt and military compensations which now rests upon our shoulders, we must have the courage to share all the noble risks that the other confederated members of the family of nations are taking for the purpose of enabling humanity to execute its divinely appointed mission without the bloodshed and the moral and economic disasters produced by war. We must remember that in Bunyan's immortal allegory, without the protecting sword of Greatheart, the innocence of Christiana and Mercy, and Christiana's children, even though as blameless as that which the Kellogg pact assumes to exist in the breasts of nations, would never have sufficed to safeguard their journey through the dread perils and tribulations of the world to the Eternal City.

The United States must abandon the unreal make-believe policies of peace which find their supreme expression in the Kellogg peace pact. It must enter the World Court; it must enter the League of Nations, which, with the accession of its enormous wealth, power, and humanitarian fervor and prestige, would become even more conspicuously than now, the most promising agency that human history has ever known for the restraint of war and its monstrous crimes and ghastly terrors, and is even now engaged in a resolute movement to bring about general disarmament.

When Thales once said that death and life were the same, some one asked, "Why, then, do you not kill yourself?" "Be-

cause," said Thales, "it is all one." Convinced that many thousands of kindly, worthy men and women in the United States earnestly wish for the ratification of the Kellogg peace pact, but that it will never prevent a single war, I feel that it is really all one whether I vote in favor of its ratification or not. However, it seems to me that the joint participation in it of the United States and the other great civilized powers of the earth might, in at least some appreciable degree, tend to hasten the entry of the United States into the World Court and the League of Nations; and I shall, therefore, under the determining influence of this thought, vote in favor of ratifying the mighty, multilateral Kellogg peace pact, which may the prayers of the pious induce heaven to prosper far beyond my present expectations!

CONSTRUCTION OF CRUISERS

Mr. GILLET. Mr. President, inasmuch as I shall not be able to be here when the bill for the construction of cruisers comes before the Senate, I wish to address the Senate now for about 15 minutes upon the bill.

When the naval bill was before us two years ago I voted against the appropriation for cruisers. I hoped that the naval conference then impending might make their construction unnecessary, or that at any rate it would result in some agreement under which we could project a definite and permanent mutual program. I thought England needed an economical and reduced program more than we did, and would probably agree to reasonable restrictions. Moreover, I felt that a breach with England was almost as improbable as it was baneful; that despite our polyglot population there was a general harmony of our aims and purposes and instincts with those of Great Britain which would make war with her very unlikely and which would lead the two nations to stand together as a common bulwark for the peace of the world. I felt great sympathy with her economic and industrial condition and with her outlook for the future, burdened with a heavier load of taxation than any nation ought to carry; and I thought, although she bore it with marvelous grit, she would welcome the opportunity which the naval conference offered for a great and permanent tax reduction.

But I was mistaken. Apparently her traditional impulse that Britannia shall rule the waves was stronger than her economic necessities, and she preferred to excite our rivalry rather than our cooperation. Perhaps that ought not to surprise us. When a nation has for generations been saturated with the conviction that her safety depended on a navy superior to any other power, when the glorious exploits of that navy had furnished the proudest records of her military annals as well as the surest bulwarks of her defense, thus winning the support both of national sentiment and national interest, and when this very generation has owed its salvation to that historic naval policy, it would not be easy to renounce it, and it would be dangerous for any administration to openly discard it. I make allowance for those conditions, and I do not mean to permit myself to be influenced by pique or affront or to be driven from one extreme to another; but in calmly considering the whole situation and the probabilities of the future, I have concluded that I must revise the fundamental principles which have governed me and must favor a more extensive and formidable force at sea than I had hoped would ever be necessary. Much is said about not engaging in competitive building, but building only for our own needs. But our needs depend on our competitors. If no other nation had any vessels which could be used for making war our safety would require none. And while it is disagreeable to contemplate any war, and much more a war with any particular nation, yet so long as other nations persist in preparing for it we can not lie a mere unresisting and helpless booty for the first well-armed aggressor.

How much, then, do we need? If we can not by agreement with our chief rivals make ourselves secure, we must accomplish the same result by building up to substantial equality. For we can not forget that the principal nations fancy that they have a grievance against us, they will all be our debtors for generations, and our wealth makes us an attractive prey. Moreover, with some of them, notably with Great Britain, we are sure to have keen trade rivalries. Large foreign trade is essential to her industrial life; it has also become a large factor in our prosperity, so that competition and friction is sure to develop and increase. Some of her prominent men seem willing to inflame it. The dean of St. Paul's recently said that in a certain contingency—

it is more than possible that the nations of Europe, enraged by the bloated prosperity and airs of superiority of "the man who won the war," would combine to draw Shylock's teeth.

When a high dignitary of the English Church and a professional follower of the Prince of Peace parades such provocative and belligerent sentiments, we can hardly rely upon the pacific and friendly attitude of all the rest of the English people. Her statesmen have always been far-seeing men, never blind to the material interests of their country; so while I do not doubt the sincerity of their professions of friendship and kinship, while they can not fail to see the certain disaster to the British Empire in this hemisphere which a war with us would entail, yet if they are unwilling to reduce down to naval equality with us, when they seem to be secure against any other nation, I see no safe course for us except to increase our armament.

At the Washington conference we were the Nation whose naval program under way was the largest and who sacrificed the most ships by the final agreement. I hate to believe that that is the only condition under which we can attain a successful conference for limitation of armament, and that when it is some other nation that has the temporary preponderance no sacrifice will be made and no agreement secured.

England insists that as she depends on importations for her food and very life she must have a sea force adequate to protect her trade lines. We can provide our own food. And yet our foreign trade is indispensable. In amount there is no great difference between us. And while without it we could probably live, it would require new adaptations. Our transportation systems, both railroad and automotive, would break down, and our eastern cities, housing many millions, have only 48 hours' food. Yet manganese is requisite for the steel of our railroads and rubber for our automobiles. And there are innumerable other foreign products which, while not essential to our existence, have become necessary to our comfort and our habitual mode of life.

The ocean lanes they travel are as long and as subject to attack as those leading to England. Moreover, while she has, all over the world, harbors for safe refuge and supplies, we have but few. I always like an excuse to quote Webster's beautiful description of this phase of England's greatness—

a power which has dotted over the surface of the whole globe with her possessions and military posts, whose morning drumbeat, following the sun and keeping company with the hours, circles the earth with one continuous and unbroken strain of the martial airs of England.

This gives her stations for defense and coaling in every sea, while we have hardly any. Consequently, we need cruisers of large coal-carrying capacity, while smaller ones, which for us would be useless, meet all her needs. So there was a reason behind her willingness at the last conference to limit large, but not small, cruisers; and as England refuses any reductions or agreement which would make our cruiser strength comparable, I see for us no alternative except to build enough to be a safe protection. England has no navy in Europe to fear.

It is disagreeable to contemplate these hostile possibilities. It is still more disagreeable to speak of them. But it is dangerous to shut our eyes to them and lull ourselves with a false security. I thoroughly agree with the sentiment of the English statesmen who say that war between the two countries is unthinkable. It would be a crime against statesmanship, against humanity, against civilization, against self-interest. Indeed, according to Benjamin Franklin, all war is against self-interest. But all these arguments and reasons against war are sometimes forgotten and ignored in a sudden flame of passion. After the Revolution we had the strongest bonds of sentiment and interest with France, yet within 20 years the warships of the two countries were fighting each other, and a declaration of war was barely averted. I will stand for every rational effort to assure peace. By agreements against war, by agreements to arbitrate, or refer disputes to courts, which look now to be the most hopeful substitutes for war, I will seek to make war impossible. By reduction of armaments which both discourages war and saves expense and rivalry, I would strive for peace, but until our rivals will agree to limit their sea power, we must not be so far behind them as to be defenseless—and that is all, it seems to me, which this naval program contemplates.

But, it is said, why increase our Navy just as all the nations have agreed to renounce war? Are these peace pacts meaningless? Do they not enhance the prospects of peace and lessen the prospects of war? Ought they not to mean an increase of friendships instead of warships? Should they not be followed immediately by a large reduction instead of increase of armaments? With the spirit of these complaints and criticisms I am in hearty and complete accord. I think they are very natural and logical. To be sure, we have not yet ratified the Kellogg pact, but I am confident that we will.

It seems to me that, considering our station in the family of nations to-day, it is our plain and imperative duty to speedily

ratify that treaty as it stands, and I would take great risks before I would see my country reject or modify what all the rest of the world, under the sponsorship of the United States, seems likely to accept.

I consider these treaties a great achievement, a substantial step toward universal peace. They vastly reduce the chance that any dissatisfied or ambitious nation will dare to affront public opinion by resort to war. And it does seem inconsistent with one and the same breath to vote a renunciation of war and an increase of warships. A great reduction of armament should be the first fruit of these treaties. That would be the best evidence that the nations were sincere and earnest in their renunciation of war. And this country with its strength and isolation ought to be most forward and urgent in pressing such reduction. But it must be by joint action of the great powers. No nation will venture to abandon its defenses if its rivals give no evidence except by words of their purpose to disarm. For agreeing not to fight does not guarantee eternal peace. There have been many formal agreements of everlasting friendship which have not endured. This is, I think, the most hopeful and promising of such agreements ever made, because it voices the sentiment of peoples whose opinions and utterances have more weight in determining national action than ever before. But under stress it may be broken. No nation is yet so assured as to throw away its arms. That must come gradually, by mutual agreement, as confidence grows with experience and cooperation.

Indeed, I think one danger of the treaties is that the people will feel that they are self-executing, that we have done our full duty to the world by ratifying them, and will feel no responsibility for further effort toward peace. But we must still provide some substitute for war, although these treaties lessen its probability. They ought to facilitate and hasten disarmament agreements among the nations. That is the method by which we should seek a general and radical and progressive diminution of navies and not by an improvident and quixotic reduction by ourselves alone. With our wealth we ought to be most zealous in urging and adopting such agreements. We ought to be willing, as we were in 1921, to make the largest sacrifices.

But we ought to be met part way, and the mutual sacrifices ought to be discussed frankly and aboveboard. And until such disarmament can be consummated by compact with other nations we must continue to make the insurance of our national security by the navy commensurate with the risk, and I do not feel that we are exceeding that by the pending naval program. I hope agreements may soon be made under which it can be greatly retrenched.

I do not wish it to appear from these remarks that I belong to that not inconsiderable class of Anglophobists. The exact contrary is true. I confess to more sympathy and good will toward the British Empire than toward any other nation. I think our ideals, our spirit, and even our prejudices are much alike. I do feel that she snubbed our advances at the last disarmament conference, but I hope our offended pride will not prevent our renewing such advances, for I think our cooperation provides the best chance for the peace and progress of the world. We are not so engrossed in our material advancement as to leave no room for a spirit of altruism. The great body of our people are eager to do their share for the peace and prosperity of the whole world and are ready to make sacrifices for it and will demand that of their leaders. And while the two nations will often provoke each other, will often be keen trade rivals, will often feel envy and jealousy, and prominent spokesmen of both will often be indiscreet and irritating, yet I hope the genuine kinship and community of ideals which I believe permeates both will bring them constantly back into cordial amity and cooperation. But a Navy is our insurance. While there is risk we must insure. Yet our constant endeavor ought to be to reduce both the risk and the insurance. That certainly will be my aim, and the fact that we of late years have so increased in power and wealth—and as some nations think at their expense—instead of making us self-willed and arrogant, ought to make us the more considerate and yielding, so that this enormous outlay by all the nations for instruments of war, which everyone hopes will never be used, can by mutual agreement soon be radically abridged.

ARMY PROMOTIONS

Mr. BLACK. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Washington Times of December 14, an editorial from the Washington Post of yesterday, and an editorial from yesterday afternoon's edition of the Washington Evening Star, all bearing on the subject of Army promotions.

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

[From the Washington Times, December 14, 1928]

REVISION OF ARMY PROMOTION LIST TO CORRECT INJUSTICES

On the calendar of the present Congress are two measures, known as the Black bill in the Senate and the Wainwright-McSwain bill in the House, which provide for the revision of the Army promotion list to correct injustices done certain groups of World War emergency officers now in the Regular Army.

These injustices were caused by a War Department interpretation which, in effect, ignored the grades of captain, first or second lieutenants for which these officers had been recommended by examining boards and "scrambled" them together indiscriminately solely in accordance with length of commissioned service.

Both Military Affairs Committees of Congress, by their favorable action in reporting out the legislation, are agreed that the present arrangement is wrong, and the Times is in complete accord with such views.

The clause in question reads that "captains and lieutenants shall be arranged in accordance with length of commissioned service," and, as Maj. Gen. Peter C. Harris, former Adjutant General of the Army, testified, this was generally understood to mean that captains would be placed among captains, first lieutenants among first lieutenants, and second lieutenants among second lieutenants. Such was the method used in placing the colonels, lieutenant colonels, and majors appointed as a result of the examinations, but the War Department did not follow that procedure in the lower grades.

By its ruling, men found qualified for no grade higher than second lieutenant were, if they had one day's more service, moved ahead of others who had been found qualified for appointment as captains, and these second lieutenants were then immediately promoted to captains and took rank above the original captains.

Why the War Department made such a ruling is now immaterial, but the fact remains that with the present list every regular officer has a chance to be retired as a colonel, while less than 450 of the more than 2,500 former emergency officers in the lower grades have this opportunity. Likewise the questioned interpretation enabled the sudden elevation of over 1,000 Regular Army first lieutenants to the grade of captain and the placing of them ahead of hundreds of emergency officers appointed captains. This is particularly unfair, as these regular lieutenants average about 10 years younger than the emergency captains, and therefore will forever act as a block on promotion.

Of course, such an interpretation, general in its terms, included in its results some emergency officers who profited equally with the regulars at the expense of their emergency brethren, but the records show them to be in the minority.

The House Military Committee is convinced that a "grave injustice was done and that a correction of this error can disturb no vested rights"; further, that "the obvious remedy is to place officers on the promotion list as they should have been placed in 1920-21." This is the viewpoint of Representative FRANK JAMES, a recognized impartial expert on military matters, who stated that he never thought the law could be interpreted as it was.

[From the Washington Post, December 14, 1928]

ARMY PROMOTIONS

Two measures affecting the important matter of Army promotions are before Congress. Each seeks to provide a remedy for the so-called hump that stands in the way of the promotion of many able officers. Although there is some sentiment in the Army against changing the existing status of the promotion list, justice to a large group of officers and maintenance of morale demand that this legislation be enacted.

Only officers of the company grade—lieutenants to captains—are affected by the legislation. Following the World War, examinations were held to fill vacancies created by the national defense act, as a result of which former emergency officers were appointed to all grades from colonel to second lieutenant. Those appointed colonel, lieutenant colonel, and major were placed among Regular Army officers of corresponding grades, but captains, first lieutenants, and second lieutenants, by an arbitrary interpretation of an act of Congress, were listed in accordance with length of service. Thus a man found qualified by examination for a grade no higher than second lieutenant, if he had served one day longer than a man found qualified to be a captain, was jumped from second lieutenant to captain, and will be a major before the captain. As a result, at the present time every Regular Army officer has a chance to become a colonel before he is retired, but relatively only a few of the younger emergency World War officers who elected to follow Army careers have similar opportunities.

The legislation before Congress proposes that the Army promotion list be arranged as it should have been in 1920, with captains placed among captains, first lieutenants among first lieutenants, and second

lieutenants among second lieutenants as originally appointed. In general, older men will be placed above younger men, but those who profited by the War Department interpretation will not be deprived of the grade and pay benefits thus obtained. The list will be so arranged that former emergency officers will have equal opportunity with Regular Army officers to reach the rank of colonel before they are retired.

For eight years the question of Army promotion has been dragging along. Congress now has an opportunity to right a wrong. It should enact the bill clarifying the promotion situation.

[From the Washington Evening Star, December 14, 1928]

ARMY PROMOTION

Revision of the Army promotion list, coupled with an alteration of the present promotion system, forms the subject matter of the Black bill in the Senate and the Wainwright-McSwain bill in the House. These two measures, which have been reported favorably by both Military Affairs Committees, are designed to correct an injustice done to certain former emergency World War officers who are now in the Regular Army by the War Department's interpretation of a portion of the national defense act of 1920. It seems to the Star a matter of simple justice that this legislation be enacted into law without further delay.

After the World War Congress provided that all temporary officers could take examinations for appointment in the Regular Army in all grades from second lieutenant to colonel and set forth the method by which they would be placed among those who were already in the Army. No confusion arose in the placement of the colonels, lieutenant colonels, and majors, but when it came to the captains, first lieutenants, and second lieutenants the War Department proceeded, in effect, to disregard the grades to which they had been appointed and to arrange them solely on length of service. The effect of this was that men who had been found not fitted to hold a grade higher than second lieutenant were placed over men who had been appointed captain as a result of the same examinations, and such second lieutenants were at once promoted to captaincies, a grade for which they had just failed to qualify.

The portion of the national defense act which was misinterpreted to produce such an incongruous hodgepodge reads as follows: "Captains and lieutenants shall be arranged among themselves according to length of commissioned service." Certainly one at all familiar with military matters would be entitled to assume that this meant that captains would be arranged among captains, first lieutenants among first lieutenants, and second lieutenants among second lieutenants; and Maj. Gen. Peter C. Harris, who was The Adjutant General of the Army at that time, has testified that he was greatly surprised to find a contrary interpretation placed on the clause and that he believed that the overwhelming majority of the Army never anticipated such an arrangement as the War Department produced.

Not only was the ruling considered a peculiar one in Army circles but both Military Affairs Committees of Congress have determined that the action taken was contrary to the majority intent of Congress itself. Representative FRANK JAMES, who was on the military committee at the time of the passage of the law and who is a recognized unbiased authority on military matters, has said: "I never thought that that law could be so construed that the man who is incompetent to pass an examination for first lieutenant, incompetent to pass an examination for captain, should outrank a man by several thousand files who had passed before you gentlemen a very satisfactory examination for captain. Now, if members of the committee, like myself—Members of Congress, like myself—think the language was not interpreted by somebody in the War Department as we intended at that time, and think injustice was done, we would be justified in trying to remedy that condition and having the law interpreted as we thought it was to be interpreted at that time, would we not?"

The Star finds itself in complete accord with the House Military Committee, which stated in its report recommending passage of the bill, "because the committee is convinced that a grave injustice was done, it is the sense of the committee that a correction of this error can disturb no vested rights" and further that "having determined that a wrong has been done, the obvious remedy is to present interpretative legislation which will result in placing officers on the promotion list as they should have been placed in 1920-21."

ADDRESS BY HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. CAPPER. Mr. President, on October 18, 1928, the Secretary of the Treasury, Hon. Andrew W. Mellon, made a notable address at the Founders' Day celebration of the Carnegie Institute, in Pittsburgh, Pa.

The address dealt in a most interesting and enlightening way with the development of the National Capital from its very beginning in the administration of President Washington.

Every American citizen should be interested in the plans for the beautification and ultimate development of the National Capital, and this applies particularly to Members of Congress

who are charged with the sole responsibility for legislating for the District of Columbia.

Washington, the National Capital, should represent all that is best and finest in the development and progress of the United States. Every American who reads Secretary Mellon's address will gain a better understanding of what the National Capital is and should be. I ask, therefore, that Mr. Mellon's address be printed in the CONGRESSIONAL RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

DEVELOPING THE NATION'S CAPITAL, AN ADDRESS BY SECRETARY OF THE TREASURY MELLON, OCTOBER 18, 1928, AT THE ANNUAL FOUNDERS' DAY EXERCISES OF THE CARNEGIE INSTITUTE, PITTSBURGH, PA.

Mr. MELLON. I want to speak to you on a subject somewhat different from those usually associated with the work of government at Washington. It has to do with the beautifying of the Nation's Capital and the carrying out of the original plan whereby the city of Washington shall become not only one of the most impressive capitals in the world but one which shall be representative of the best that is in America. The importance of the work was stressed by President Coolidge in his last annual message to Congress, in which he said:

"* * * If our country wishes to compete with others, let it not be in the support of armaments but in the making of a beautiful Capital City. Let it express the soul of America. Whenever an American is at the seat of his Government, however traveled and cultured he may be, he ought to find a city of stately proportion, symmetrically laid out and adorned with the best that there is in architecture, which would arouse his imagination and stir his patriotic pride. * * *"

Congress has made the necessary appropriation to initiate this work and to carry out the most important features of that long neglected plan of Washington and L'Enfant for the development of the city. The responsibility for carrying out this plan, by the purchase of sites and the erection of buildings, was placed by Congress on the Secretary of the Treasury and has become, therefore, an integral part of Treasury activities.

Before entering upon a discussion of what is to be undertaken, it is necessary to have a clear understanding of the historic background against which this work must be done. Washington, as you know, was founded for the express purpose of being the Nation's Capital. There have been only two other world capitals so founded—the former Russian capital of Petrograd and the newly created city of Canberra in Australia. To me there has always seemed something heroic about the early beginning of Washington. When we remember that at that time the entire country had a population of less than 6,000,000, that communication was difficult and the Government almost without financial resources, we marvel at the courage and vision of men who proceeded to build a city in a wilderness and to project it along lines so magnificent that even to-day we do not find it easy to carry their plans to completion.

The new capital was established in accordance with a provision inserted in the Constitution; and it thus became one of the first duties of the newly formed Government to carry this provision into effect. You remember how both the Northern and the Southern States desired that the Federal Capital should be located in their territory. The final decision was made in a way that settled another question then agitating the public mind. Alexander Hamilton, as Secretary of the Treasury, had succeeded in having the Federal Government assume the payment of all debts incurred by that Government in the prosecution of the Revolutionary War. But the assumption of the debts incurred by the States was another matter. The States with small debts felt that it was unfair to ask them to help discharge the larger debts incurred by other States, and opposed assumption by the Federal Government. As it happened, the States with small debts were mostly in the South, where it was ardently desired that the capital should be located. Hamilton felt that assumption of the debts was a vital part not only of his financial policy for establishing the public credit but of that larger purpose involved in tying the States together in a firm and indestructible union. He determined, as some one has remarked, to resort to the expedient of "giving a civility in exchange for a loaf of bread." He asked Jefferson, who represented the southern party, to give a dinner. At this dinner party, it was arranged that the capital city should be located in the South and in return the South agreed to support assumption of the State debts by the Federal Government.

Subsequently Congress authorized the capital to be established on the Potomac River and that President Washington be allowed to select the exact spot. He did so, with the aid of Jefferson and Madison; and these two with the three commissioners appointed to prepare the new seat of government, gave to the city the name of Washington and to the District the name of Columbia. Washington himself, throughout his life always modestly referred to the new capital as "The Federal City."

The President's next step was to secure the services of a man who should design the city. He chose Maj. Pierre Charles L'Enfant, a young French engineer officer, who had served in the Army during the Revolutionary War. L'Enfant was eminently suited for the task. He knew

Europe and was undoubtedly familiar with landscape architecture as practiced there by that greatest of all landscape architects, Le Nôtre, whose designs at Versailles and elsewhere have been followed throughout the civilized world.

L'Enfant threw himself into the work with enthusiasm. With Washington and Jefferson he worked out a plan for a splendid city, with a system of streets running from north to south and east to west. Superimposed upon this rectilinear arrangement were those diagonal avenues radiating from the Capitol and the White House, as do the spokes from the hub of a wheel. He sought to locate all public buildings in appropriate landscape settings and with especial regard to preserving the axial treatment, which is an outstanding feature of Le Nôtre's work. These buildings were to be grouped along a beautiful park a mile long, connecting the Capitol Building with the President's park south of the White House. A great avenue was to border this park, flanked on one side by public buildings; and at the point where the axis of the White House intersected the axis of the Capitol was to arise the monument to Washington already voted by the Congress. It was a noble plan, and if carried out will give to the city of Washington that sense of unity and grandeur which so impresses one to-day in Paris.

During the first hundred years the city of Washington suffered many vicissitudes. It struggled into existence as best it could with little regard for the plan of L'Enfant or any other plan. On the removal of the Federal Government from Philadelphia in 1800 the new city was almost as much of a wilderness as it had been a little earlier when the Indians of the Powhatan Tribe held their councils at the foot of Capitol Hill. Fortunately the Capitol Building and the White House had been started before the death of Washington, and so the main axes of the new city had been fixed. Both buildings were badly burned during the British raid on Washington in 1814, but were soon restored in accordance with the original designs, and in the case of the Capitol the wings and dome were added a few years later. During this same period of good taste the Patent Office was built and also the present Treasury Building, two of the architectural glories of Washington.

I would like to say a word about the Treasury. The building in which it was originally housed was destroyed by the British in 1814. The new building, erected in its place, was destroyed by fire in 1833, and finally in 1836 the present building was begun on the site designated by President Jackson. It was commonly reported that, becoming wearied of the delay in selecting the location, General Jackson planted his cane one morning at the northeast corner of the present site and said, "Here, right here, I want the corner stone laid." And it was laid there, notwithstanding the fact that, when finally completed in 1869, the south wing was interposed between the Capitol and the White House, and thus shut off the vista at that end of Pennsylvania Avenue.

Before leaving this subject I would like to say a word also about the White House. It is so perfect in proportion and design that it merits special comment. But what has seemed to me remarkable is that a building which was planned for a small and struggling Nation and situated in what was at that time a backwoods capital should have proved adequate for the needs of one of the greatest and most powerful nations in the world to-day. Such things do not come about by accident. It was surely due to the extraordinary foresight of some one, and that person, it is interesting to know, was Washington himself. Following the adoption of Hoban's plan for the White House, Washington directed that the size of the building be enlarged one-fifth over the original plan, notwithstanding the difficulty of meeting the increased cost involved. The President's reason shows his intensely practical mind. He said: "I was led to this idea by considering that a house which would be very proper for a President of the United States for some years to come might not be considered as corresponding with other circumstances at a more distant period; and, therefore, to avoid the inconvenience which might arise hereafter on that subject, I wished the building to be upon the plan I have mentioned." Washington's views were carried out; and so we owe one more debt to that great man, who, more than any other single individual, gave us not only our country but our National Capital as well.

Unfortunately, after his death there was no driving force, either in Congress or elsewhere, which could carry out his plans for the city's development. The end of the Civil War found it a badly built, straggling town, largely unpaved, with a few streets lighted by oil lamps, and the areas reserved for parks overgrown and neglected. Later President Grant induced Congress to give the city a Territorial form of government; and under Alexander R. Shepherd, a man of extraordinary energy, courage, and vision, who became commissioner of public works, the city was transformed. He succeeded in grading, paving, and lighting the streets; the old Tiber Creek was inclosed in a sewer; and thousands of trees were planted, thus laying the foundation for that growth of trees which is now one of the glories of Washington. During this period one great work, the half-built Washington Monument, was carried to completion in 1884. But the Mall, on which it was placed, had

never been properly developed, and throughout the entire city the effect for which Washington and L'Enfant strove was entirely lacking.

Such was the condition of the Nation's Capital in 1900, when the one hundredth anniversary of the establishment of the seat of government in the District of Columbia was celebrated. At the invitation of President McKinley a meeting was held in the White House attended by many high officials of the Government and by the members of the American Institute of Architects then meeting in Washington. Interest in the L'Enfant plan was revived; and shortly afterwards Senator McMillan secured authority from Congress for the appointment of a special commission of experts, who should recommend a plan for the beautification and development of Washington.

That commission included Daniel H. Burnham and Charles F. McKim, architects; Augustus St. Gaudens, sculptor; and Frederick Law Olmsted, landscape architect. It was a notable group, such as has seldom been brought together in one undertaking. Burnham, McKim, St. Gaudens, and the father of Olmsted had brought about those beautiful architectural and landscape effects at the Chicago World's Fair in 1893, which gave an impulse to city planning and to the rebirth of beauty and good taste in this country.

After a careful study of Washington and its possibilities, these men presented a report, known as the plan of 1901. In it they recommended a return to the original plan of Washington and L'Enfant, with such extension of it as might be required to meet modern conditions and the city's growth. After submitting their report the commission passed out of existence, but its members were consulted unofficially by Presidents Roosevelt and Taft with regard to the location of public buildings and memorials. Later Mr. Burnham and Mr. Olmsted, who were the only members then living, were made members of the Commission of Fine Arts, a body created by Congress in 1910 to serve in an expert and advisory capacity regarding questions affecting the development of Washington. This commission, which was established during the administration of President Taft, owes much to the backing which he gave it and also to the interest and understanding of Mr. Root. Under the chairmanship of Mr. Charles Moore, it is now doing splendid work for Washington and the country.

The commission has adhered to the plan of 1901 as a restatement of the authority of the L'Enfant plan and has insisted that this plan must continue as fundamental in the development of Washington. In more than a quarter of a century since the plan of 1901 was presented much has been accomplished. The unsightly railroad tracks have been removed from the Mall; and, due largely to the cooperation and public spirit of a distinguished son of Pennsylvania, President A. J. Cassatt, of the Pennsylvania Railroad, a great Union Station has been built in accordance with the plans of the commission. The station and also the beautiful city post office adjoining it, have been placed in a position subordinate to the buildings on Capitol Hill, but in a harmonious and vital relation to them. In this way a traveler arriving in Washington gazes first across a beautiful plaza to the great dome of the Capitol and the Library of Congress beyond. To-day this station stands like a great city gate at the entrance to the city; and, while much remains to be done in clearing off the space intervening between it and the Capitol, the Union Station, itself, in its architectural and landscape treatment, has already helped to establish a precedent by which railroad stations in this country have come to be recognized as public buildings of the first importance.

The plan of 1901 considered the Capitol as the dominating feature to which all structures in the legislative group must be subordinated. The Library of Congress, facing the Capitol, had been built in 1897; but in the later structures, such as the white marble office buildings for the use of Senators and Congressmen, the principle of subordination in grouping has been observed. It will be carried out in the erection of a building for the Supreme Court in the vacant space facing the east front of the Capitol and flanking the Library of Congress.

At the foot of Capitol Hill, looking toward the Treasury and the White House, the plan of 1901 contemplates that there shall be a great open plaza with monuments and fountains somewhat like the Place de la Concorde in Paris. It was intended that this space should provide a dignified entrance to Pennsylvania Avenue and also into the Mall leading westward to the Washington Monument a mile away. The memorial to General Grant has been located in this space in accordance with these plans, but there progress has stopped.

The development of the Plaza and the Mall has been delayed until arrangements could be made for the removal of the Botanic Gardens to larger and more suitable quarters on land to be acquired on the west front of the Capitol. The State of Pennsylvania has erected a memorial to Gen. George Gordon Meade, as a companion to the Grant Memorial, and in doing so has also provided for suitable landscape setting in accordance with the Mall plan. Thus these two memorials will stand in the great Union Plaza at the head of the Mall and the way will be open at last, under plans now being made by the National Capital Park and Planning Commission, to complete the developments required to make the Mall into a beautiful park.

First, it will be necessary to demolish the temporary buildings and the smokestacks erected during the war. Then a great avenue of greenward, bordered by drives and lined with four rows of stately trees, will be projected through the Mall, leading westward from the Capitol and the Union Plaza to the Washington Monument and the Lincoln Memorial beyond. Along this avenue, at intervals, will be such buildings as the Agricultural Department, the Freer Gallery, the National Museum, and the Smithsonian Institute. This avenue will end at the Washington Monument; and, beyond the monument, at the point where the new axis meets the Potomac, has been placed that beautiful white marble structure, the memorial to Abraham Lincoln.

From the foot of the Lincoln Memorial a great bridge, commemorating the union of the North and South, is now in process of building. When completed it will lead across the Potomac to the slopes of Arlington, where, surrounding a mansion once the home of Gen. Robert E. Lee, are the graves of those who died in their country's service, including that newly erected national shrine, the Tomb of the Unknown Soldier. From Arlington a boulevard will stretch to Mount Vernon, the home of Washington; and all of this region and the section known as Potomac Park, with its river drives and famed cherry trees, will be joined, under plans now being carried out, with Rock Creek Park and that section of the city where the great Gothic cathedral is rising on the wooded heights of Mount St. Alban.

Now, I must ask you to return for a moment to a consideration of another vast project which will eventually realize L'Enfant's dream for a great avenue bordering the Mall and leading from the Capitol to the White House. You are familiar with the distressing spectacle which Pennsylvania Avenue presents to-day. It is perhaps our most important street, and certainly there is no avenue of corresponding importance in any capital which can compare with it in sheer ugliness or lack of architectural dignity. It is the street over which our great processions pass in triumph to the Capitol. Yet never, in the days of either the ancient or the modern world, has anyone seen before a great triumphal way bordered, throughout much of its length, by gasoline stations, lodging houses, and Chinese laundries.

This state of affairs, I am glad to say, will soon be remedied. Congress has determined that the Capitol shall be approached by an avenue commensurate in dignity with its importance. Senator SMOOT, who has such a clear conception of the future possibilities of Washington, has taken the lead in this work; and he has been ably seconded by Senator SWANSON, Senator BRUCE, Congressman ELLIOTT, LANHAM, and others. An appropriation of \$50,000,000 has been made, supplemented last winter by an additional \$25,000,000, and other amounts will be forthcoming as the work progresses. The amounts already appropriated will be used to initiate the most important features of the plans for Washington's development, with special regard for the Mall and for improving Pennsylvania Avenue.

The Secretary of the Treasury was authorized to use this money in the purchase or condemnation of land and the erection of public buildings. It is intended to carry through, as rapidly as possible, the most pressing needs as regards housing of Government departments and activities. These will include a new and larger building for the increased activities of the Department of Commerce; a Supreme Court building; a building for the Bureau of Internal Revenue; an archives building; a building for the Department of Agriculture; another for the Department of Justice; still another for the Department of Labor; and several others besides. One of these buildings, that for the Supreme Court, will be placed on Capitol Hill for reasons already given; but, as regards the others, advantage will be taken of this opportunity to group them together in such a way as to contribute in the greatest measure possible to the beauty of Washington. The placing of these buildings is a great responsibility, for on the proper determination of this question largely hinges the city's future development.

Before coming to a decision, the Secretary of the Treasury consulted with Mr. Edward H. Bennett of Chicago, who has had so large a part in bringing to completion the extensive plans for beautifying that city. Mr. Bennett was appointed consulting architect to the Secretary of the Treasury; and, under his advice, and also in consultation with the Fine Arts Commission, Col. U. S. Grant, 3d, of the Office of Public Buildings and Public Parks, and Assistant Secretary of the Treasury Schuneman and Supervising Architect of the Treasury Wetmore, the general principle has been established that no large departmental buildings are to be placed in the Mall, as was at first proposed, but that the Mall is to be preserved for park purposes and as a site for buildings of a museum-like character.

Departmental buildings are to be placed along the south side of Pennsylvania Avenue from the Treasury to the Capitol. In addition to facing on Pennsylvania Avenue, these buildings will face also on a grand boulevard, which is to be cut through the city, bordering the Mall and stretching from the Capitol to the new Memorial Bridge on the Potomac near the base of the Lincoln Memorial. Plans are now being made to secure a comprehensive treatment of this entire area between Pennsylvania Avenue and the new boulevard both as regards the location and the grouping of the various buildings. A group of the leading architects of the country has been formed to study this problem and to

submit designs for all the buildings in this area. It is intended that these buildings, while having each a separate and distinctive architectural treatment, shall be of harmonious design and grouped around two large interior courts or plazas somewhat after the arrangement of the Louvre in Paris.

It is easy to see what the effect will be. As one proceeds down Pennsylvania Avenue toward the Capitol, on the south side will be a succession of beautiful and harmonious buildings, all of a design in keeping with the semiclassical tradition so well established in Washington. On the north side vistas will be opened up, so that groups of buildings, such as the beautiful District of Columbia courthouse on John Marshall Place, shall be brought into the general plan of Pennsylvania Avenue. At the same time the Mall will present the spectacle of a great park bordered on one side by the new boulevard lined with beautiful buildings, and on the other side by a wide parkway of greenward with its four rows of trees, its drives and walks, statues, and reflecting pools, arranged in such a way that long vistas will be opened up for views of the Capitol in one direction and the Washington Monument and Lincoln Memorial in the other.

All of this will take time, of course. But Rome was not built in a day, nor for that matter was Paris. Paris has passed through many stages, each distinct from the other. The Gothic Paris is as different from the Paris of the Renaissance as the Paris of Louis XIV differs from that of Napoleon III. Go about in modern Paris and it is with difficulty that one can trace the landmarks of the past. Yet, somehow, in spite of her vicissitudes and of having no fundamental plan from the beginning as Washington had, Paris possesses that sense of unity and completeness so rare in any great and growing city. All its principal buildings seem to fit into the landscape and to be part of a general plan so magnificent in conception and execution that it makes one wonder whether an effect equally satisfactory and on a scale and design suited to our needs can ever be produced in Washington.

And yet, Washington has many advantages in so far as its future development is concerned. Its life centers around the Government, as those who planned the city intended it should do. There is no manufacturing; and the engineering and industrial problems, which have to be met at such expense and effort in great industrial centers like Pittsburgh and Chicago, are entirely absent. Washington is still a city of moderate size, notwithstanding the fact that its population has grown from 75,000 at the time of the Civil War to about half a million to-day. But so long as it remains chiefly a seat of government it will retain its unique character among the cities of the country. More and more it will be visited by people who will go to Washington because of its beauty and their feeling of pride and personal ownership in the Nation's Capital. With the rapid growth in the use of automobiles and of airplanes, larger and larger numbers will visit Washington each year. As it becomes more beautiful and its fame grows, people will visit it from all parts of the world and Washington will find, as Paris has done, that architectural and landscape beauty can be a source of profit, as well as pride and satisfaction, to a city.

But there are weightier reasons than these why we should give our support to the effort to rebuild our National Capital. Until recently, America has been in the frontier stage as nations go. We were too busy about the hard realities of existence to have much time for the amenities. But now we have the opportunity and we have also the resources to raise the standard of taste in this country; and the extent to which this is being done has no parallel at present in any country in the world. Nowhere are the arts of architecture and landscape engineering being practiced more extensively and successfully than in America.

It has been said that in evolving the skyscraper we have made the only original contribution to architecture since the Gothic. Certainly in adapting architecture to the needs of modern conditions and crowded spaces we have produced something that is expressive of human aspiration and human need. Judged by that standard, the Woolworth Building is a work of art, both because it is beautiful in itself and because it expresses the needs and aspirations of a great people. If we can give to our office buildings something of the beauty of Gothic cathedrals and model our banks and railroad stations after Greek temples we shall in time provide a magnificent setting for the requirements of modern civilization.

But we must remember that just as these things are architectural expressions of the Nation on its commercial side, so should the city of Washington, as President Coolidge has said, express the soul of America. We do well, therefore, to give to it that beauty and dignity to which it is entitled. In doing so we are not only carrying out those plans which Washington made so long ago for the city which he founded, but at the same time we are justifying that faith which he had from the beginning in the future greatness of America.

ADJOURNMENT

Mr. CURTIS. I move that the Senate adjourn.

The motion was agreed to; and (at 1 o'clock and 20 minutes p. m.) the Senate adjourned until Monday, December 17, 1928, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

SATURDAY, December 15, 1928

The House met at 12 o'clock and was called to order by Hon. William Tyler Page, its Clerk, who read the following communication from the Speaker:

THE SPEAKER'S ROOMS,
HOUSE OF REPRESENTATIVES, UNITED STATES,
Washington, D. C.

I hereby designate Hon. JOHN Q. TILSON to act as Speaker pro tempore to-day.

NICHOLAS LONGWORTH.

Mr. TILSON assumed the chair as Speaker pro tempore.

The SPEAKER pro tempore. The House will be in order. The Chaplain will offer prayer.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Thou who art the Lord of life and light, conquering sin and doubt, sorrow and despair, we thank Thee that there is nothing that stands in the way of Thy perpetual care. In the days when winter cold blights the bloom of summer and we can no longer commune with field and flower, Thou dost blossom in the garden of the human heart and light up the firmament of the soul. At the turn of each day a bountiful Providence meets and greets us on the stairway of human need. There is no farthest limit to the richness and the blessedness of our Heavenly Father. Way down beneath all finite measures, making as secure as time, the sleepers of the old earth, lie the loving, abiding purpose and plan of Almighty God. Oh, let the beauty of the Lord be upon us this day. Amen.

The Journal of the proceedings of yesterday was read and approved.

AMENDMENT OF THE WORLD WAR VETERANS' ACT

Mr. GARBER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD upon the subject of the administration of the Veterans' Bureau, incorporating therein a resolution by the American Legion of Oklahoma.

The SPEAKER pro tempore. The gentleman from Oklahoma asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

Mr. UNDERHILL. What is the gentleman's request?

Mr. GARBER. To extend my remarks on the subject of the administration of the Veterans' Bureau.

Mr. UNDERHILL. The gentleman's own remarks?

Mr. GARBER. Yes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. GARBER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following resolutions:

Resolutions

Whereas many disabled veterans of the World War are complaining of the unsatisfactory attitude and decisions of the claims and rating boards, and that the claims and rating boards are disregarding the spirit and the provisions of the World War veterans' act governing such boards; and, in view of the fact that the Veterans' Bureau rules provide that a claimant shall receive the benefit of a doubt existing it is alleged that the claims and rating boards in a great many instances fail to give the claimant any such benefits; and

Whereas regulation 74, of August 12, 1924, provides that the regional managers designate who the members of the claims and rating boards shall be, and it is provided further that such designation must be confirmed by the director; and

Whereas it has come to the attention of many ex-service men that this ruling or law of the bureau is entirely ignored by central office; and

Whereas the attention of the American Legion is directed to the fact that many claimants' folders are taken from the regional office to the central office without the claimants' knowledge, and many decisions are reversed without the claimants being given a hearing or a reason for the reversal; and

Whereas the American Legion's policy advocating decentralization is well known, in so far as it might expedite the proper adjustment of a disabled veteran's claim: Therefore be it

Resolved by the joint meeting of the post officers, American Legion, Department of Oklahoma, in session assembled, That we recommend to the Members of the Oklahoma congressional delegation that an amendment be made to the World War veterans' act providing that the director may appoint members of the claims and rating boards from a list submitted by the regional manager; and providing further that the assignment of such board members shall be made by the regional manager, and that any member may be removed by the regional manager where a disregard of Veterans' Bureau laws and rulings is shown; and be it further

Resolved, That a copy of these resolutions be immediately mailed to each Congressman and Senator representing the State of Oklahoma in Congress, and that a copy be immediately mailed to each of the members of the department executive committee of the American Legion of Oklahoma.

The above resolutions, approved by unanimous vote of Argonne Post, No. 4, Enid, Okla., and the contents of which were embodied in the resolution approved by a meeting of the officers of all American Legion posts in Oklahoma at Oklahoma City, December 3, 1928.

INTERIOR DEPARTMENT APPROPRIATION BILL

Mr. MORROW. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the bill passed by the House yesterday upon the subject of the Carlsbad Cave.

The SPEAKER pro tempore. The gentleman from New Mexico asks unanimous consent to extend his remarks in the RECORD upon the bill passed yesterday. Is there objection?

There was no objection.

Mr. MORROW. Mr. Speaker, I make reference to H. R. 15089, a bill making appropriations for the Department of the Interior for the fiscal year 1930, and for other purposes. This bill carries an appropriation for the Carlsbad Cave National Monument, N. Mex., in the sum of \$100,000; the amount will afford the carrying on, development, and preservation of the caverns. The bill likewise carries the acceptance by the Secretary of the Interior of a parcel of land in the town of Carlsbad, N. Mex., which has been tendered to the United States of America in fee simple. This is the donation of a site for the construction of a residence for the superintendent of the monument. The bill also carries an appropriation of \$5,000 for the construction of the home for the superintendent.

The \$100,000 appropriation provides specifically the following improvements:

Operation of a motor-driven passenger car for the use of the superintendent and employees in connection with the work of the monument.....	\$800
Construction and improvement of the caverns.....	59,000
Addition to the office building.....	1,500
Power house.....	4,000
Additional water supply and water storage.....	12,000
Disposition of sewerage.....	2,000
Construction of a garage.....	500

The people of New Mexico in general, and of Carlsbad in particular, should be very appreciative of the time given by, and the complete investigation made by, the subcommittee of the House Appropriations Committee for the Interior Department. This subcommittee made an inspection of the national monuments and other Government-controlled properties in my State in the summer of 1927. The possibilities for developing the Carlsbad Caverns were seen, and as a result the Appropriations Committee was most fair in its appropriation for the caverns for the fiscal year 1930. The personnel of the subcommittee [Mr. CRAMTON, of Michigan; Mr. TAYLOR of Colorado; and Mr. FRENCH, of Idaho] should have the appreciation of the State of New Mexico, and especially of the eastern part of the State. The broad view taken by the committee in permitting the fees received from the tourists who visit the caves, to be placed in a fund to be used for the development of the caverns, is indeed commendable.

Most assuredly a vast forward step has been taken by the Government in exploring and developing the Carlsbad Caverns, N. Mex. When the Interior Department appropriation bill for the fiscal year 1926 was being considered on December 6, 1924, I offered the first amendment in behalf of the Carlsbad Caverns. That bill carried an appropriation of \$21,980 for all national monuments. The amendment I offered to that provision is of record, as follows:

Amendment by Mr. MORROW: Page 97, line 12, after the comma strike out the word "and" and in line 13, page 97, after the comma insert "and \$20,000 for constructing a tunnel into Carlsbad Caves, N. Mex.," and change the figures "\$21,980" to "\$41,980."

Let us note the appropriations for Carlsbad Caverns from the year 1924 to the fiscal year 1930 and we will see how the subcommittee has realized the importance and grandeur of the caverns. Figures from the National Park Service show the following appropriations:

1925.....	\$5,000
1926.....	25,000
1927.....	15,000
1928.....	30,000
1929.....	70,000
1930.....	100,000

At the time I offered the first amendment, Congress had perhaps never heard of the caves. Publication of pictures of the caverns had been made by the National Geographic Society, but the caverns were little known. To-day all who visit these caves term them a world wonder. The beauty of the caves is hard to conceive, and one must visit the caverns to secure a picture of

this fairyland. The cave is so large that all of the known caverns of the world could be placed into one of its large rooms.

The little town of Carlsbad has been placed on the map with the advertisement and development carried on in the past four years; the town has become the attractive tourist city of the Southwest, and it is rapidly growing into a modern city, with large and well-equipped modern hotels and rooming houses, paved streets, and graveled and oiled roads leading into the city and to the caverns. So great has the tourist travel increased that the receipts from tourist fees have mounted each year as follows:

1926	-----	\$3, 718
1927	-----	32, 628
1928	-----	55, 682

And it is estimated that the same will exceed \$100,000 for the year 1929.

The method pursued by the committee in dealing with the caverns has been most generous; the splendid cooperation given by the National Park Service has been gratifying, and the fine service given by the superintendent of the caverns in caring for and satisfying the visitors is all a great record of achievement which means that thousands, indeed very soon it will mean 100,000 visitors will pass through the developed caverns each year.

The Carlsbad Caverns at this time mean more toward advertising our great Commonwealth than any other attraction the State has to offer. New Mexico has ideal mild climate; splendid highways have been built. The tourist may be lured to New Mexico by the wonders of the Carlsbad Caves, but going through the State the visitor is brought directly in view of the many other resources the State has to offer.

Carlsbad, with its incomparable caverns, is already known on every continent. One writer has said:

When the world learns of it—Carlsbad Cavern—nothing will prevent the world coming to see it. It rivals all the magnificent scenic places in America and is utterly unlike any of them.

That the world is learning of the cave—and going to see it—is amply shown by the increase in tourist travel in five years. Note the tabulation of visitors to the caverns for the following years:

1924	-----	1, 280
1925	-----	1, 794
1926	-----	10, 904
1927	-----	26, 436
1928	-----	46, 335

The appropriation of \$100,000 for the fiscal year 1930 means that the National Park Service can assure the public of easy accessibility to the Carlsbad Caverns, and of proper service on their visit to this underworld. The tourist will never forget the thrill of a visit to this wonderful underground chamber where electrical facilities enable him to view the glittering universe of beauty before him.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed with amendments, in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 5773. An act to provide for the construction of works for the protection and development of the lower Colorado River Basin, for the approval of the Colorado River compact, and for other purposes.

AGRICULTURAL DEPARTMENT APPROPRIATION BILL

Mr. DICKINSON of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 15386) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1930, and for other purposes. Pending that, if we can, I would like very much to reach an arrangement with the gentleman from Texas [Mr. BUCHANAN] to fix the time for general debate. Has the gentleman from Texas any suggestion to make?

Mr. BUCHANAN. I am listening for the gentleman's suggestion.

Mr. DICKINSON of Iowa. I suggest that we limit the general debate to two hours, one-half to be controlled by the gentleman from Texas and one-half by myself.

Mr. BUCHANAN. That is satisfactory to me.

Mr. DICKINSON of Iowa. Mr. Speaker, I ask unanimous consent that the general debate be limited to two hours, one-half to be controlled by the gentleman from Texas [Mr. BUCHANAN] and one-half by myself.

The SPEAKER pro tempore. The gentleman from Iowa asks unanimous consent that general debate upon this bill be limited

to two hours, one half to be controlled by himself and the other half by the gentleman from Texas [Mr. BUCHANAN]. Is there objection?

There was no objection.

The SPEAKER pro tempore. The question now is on the motion of the gentleman from Iowa that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the Agricultural appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 15386) making appropriation for the Department of Agriculture for the fiscal year ending June 30, 1930, and for other purposes, with Mr. TREADWAY in the chair.

The Clerk read the title of the bill.

Mr. DICKINSON of Iowa. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. DICKINSON of Iowa. Mr. Chairman, I yield 15 minutes to myself.

I wish to call attention to only two or three outstanding facts with reference to this appropriation bill. In the first place, the committee has shown a very friendly disposition toward the items of research. We have again increased the item for research. We have heard the various complaints from all over the country in respect to the pests and diseases and we have been very liberal in making an effort to have the department reach out and, so far as possible, help people in different localities to combat these various pests that are affecting crop production. This is true with reference to the larch canker in your forests, and it is true with reference to the wireworm, and also with reference to the production of bulbs and the pests affecting the production of bulbs. It is true with reference to research in the matter of preparing fruits for shipment in export. It is true with reference to an effort to find out what the flour weevil is that is affecting the shipment of flour from southern ports to European ports. We have gone along with these items and have been very friendly in granting additional sums, so that for departmental work this bill carries \$1,700,000 more than the 1929 bill.

With reference to tuberculin tests, we are carrying on the tuberculin tests with increased indemnities, as provided in this bill. We are reaching out as far as possible to eradicate tubercular cattle that are producing milk that is being fed to the human family in the United States.

With reference to the corn borer, which is one of our old items, we are carrying on the matter of research to try to eradicate the corn borer, and we are carrying on quarantine limitations and making every effort to prevent its spread, but we are not carrying on an eradication or clean-up program as many people understood.

Next, with reference to the barberry bush, there has been much interest in that.

The department cut the item approximately \$30,000. We restored that item and we are carrying the barberry eradication item at the amount carried in the bill in previous years in order that there shall be no curtailment of the work. On top of that, we are going out to make an effort under the \$30,000 item for rust-resisting wheat. I am simply citing a few points in the bill.

Mr. TILSON. Will the gentleman yield?

Mr. DICKINSON of Iowa. I will.

Mr. TILSON. Is it still the opinion of experts that the rust is caused from the barberry?

Mr. DICKINSON of Iowa. Oh, yes. The hearings are very complete in reference to that, and the evidence given the committee seems to be indisputable.

Mr. TILSON. How is it carried from the barberry bush itself to the seat of infection?

Mr. DICKINSON of Iowa. It is carried by birds, and it is carried by winds and in all different ways. For instance, they find where there is a barberry bush rust will spread within a radius of miles.

Mr. COLE of Iowa. Is there any hope of ultimate eradication of the barberry bush? Are they making any progress?

Mr. DICKINSON of Iowa. They are making splendid progress; but the trouble is, one digging does not clean up the bush. They will grow back in some form—unknown sprouts will grow up—and the experts find on those farms where they clean up it is recurrent by reason of that sprouting within that radius. It is very important to resurvey it from time to time. However, they are making progress.

Mr. KETCHAM. If the gentleman will yield, in reference to the corn borer clean-up, will the gentleman state what is contemplated as to the conducting of a clean-up campaign?

Mr. DICKINSON of Iowa. There has been no representation to us as far as a clean-up campaign is concerned.

Mr. KETCHAM. If that is done, then a supplemental appropriation will be made?

Mr. DICKINSON of Iowa. Will go into this bill.

Mr. KETCHAM. Will the gentleman be kind enough to compare the appropriations made previously for the corn borer with the present appropriation?

Mr. DICKINSON of Iowa. It is an increased amount through the research work in the bill. One way they are endeavoring to meet the ravages of the corn borer is through parasites, by different resistant, to determine whether or not the corn borer is going to be able to destroy it.

Mr. KETCHAM. What did the testimony bring out in regard to the development of parasites?

Mr. DICKINSON of Iowa. They are developing them, but they are not able to say that they are a cure.

Mr. LEAVITT. If the gentleman will yield, the farmers in Montana will be particularly interested in this question of the eradication of the barberry. Can we be assured that that campaign will be carried through?

Mr. DICKINSON of Iowa. We find they are all absolutely in favor of the barberry item being carried out to a point where the barberry bush is extinguished. That is, the kind of barberry bush that produces rust. In reference to the wheat proposition, I want to go one step further. We put in this bill \$29,900, an item of research in rust-resistant types of wheat. Now, this campaign is being advocated by the extension department of the agricultural colleges in four or five of these States out there which produce so much wheat.

We had before us the presidents of the various agricultural colleges which have been inaugurating this campaign. That includes Minnesota and the two Dakotas and Montana. They are very anxious that experiments be carried on to ascertain whether they can develop a rust-resistant wheat. They are very hopeful of success, and we have given the Budget estimate for that work.

Mr. STEVENSON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. STEVENSON. Referring to the barberry matter, may I ask the gentleman whether it is the barberry that we put out?

Mr. DICKINSON of Iowa. No. That is the Japanese barberry.

Mr. STEVENSON. We have had rust with our barberry to my knowledge all my life.

Mr. DICKINSON of Iowa. I can not answer with absolute accuracy, but it is my impression that the barberry productive of rust is the old barberry that grows wild in the forest areas. It is not the cultivated Japanese barberry that produces the little red berry.

Mr. STEVENSON. That is not the same variety?

Mr. DICKINSON of Iowa. No.

Mr. COLTON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. COLTON. There is provision made here for research and investigation of range problems in the public-land States, in which we are very much interested. I noticed in the hearings last year that the Chief Forester said that it was one of the most important items, in his judgment, in the bill. This year an application was made for a \$25,000 increase in that item. The Budget allowed a little more than \$17,000 increase. The committee seems not to have changed that as I notice in this bill there is only a little over \$17,000 allowed.

Mr. DICKINSON of Iowa. My impression is that we increased the item known as the forestry survey, and we increased the item of forestry economics. It is my thought that that is one of the items you referred to, the forest survey.

Mr. COLTON. No. The item that we are particularly interested in is for range research. In that the department asked for an increase of \$25,000, but the Budget has allowed, as I recall, only about \$14,000, and something over \$2,000 is allowed under the Welch Act for adjustments. We are interested in this item for range research. It means very much to those who are using the public domain. I am referring to that in contradistinction to the forest reserves. We are anxious to get ways of increasing the forage on the public domain. Thus far comparatively little work has been done along that line. We want an increase for range research. It is vital to the intermountain region.

In the McNary-McSweeney Act there was an appropriation authorized for this work totaling \$275,000, and it was the intention to increase the amount this year by \$25,000.

Mr. DICKINSON of Iowa. We reached the conclusion that the research on the public domain should abide the legislation

where the Government would supervise and control these ranges, and the committee finally reached the conclusion that we ought to wait until that legislation was enacted.

Mr. COLTON. Under section 7 of the McNary-McSweeney Act provision was made for research work on the forest reserves and on the adjacent public domain.

Mr. DICKINSON of Iowa. In the public domain the Government has no control over the range. If you increased your range it would mean simply that some one would come in there and take possession of it. It was our belief that we should have legislation covering the public control of those areas.

Mr. COLTON. We have a bill now pending before the Committee on the Public Lands for public control, but in the meantime this is for research on range projects, which are on the forest reserves and on the adjacent public domain. I am very much disappointed that the amount has been reduced.

Mr. LANHAM. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. LANHAM. In the prosecution of the study of root rot, which is very destructive of our southern cotton crop, is the gentleman prepared to state to us to what extent the research thus far made in this regard has been successful, and whether any remedy has been discovered that would indicate that they will reach the solution of this problem?

Mr. DICKINSON of Iowa. Some members of our subcommittee have gone into that very carefully. I understand they are very much encouraged with the investigation thus far made. I regret I could not give a detailed description of what has been done.

Mr. KINCHELOE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. KINCHELOE. The Committee on Agriculture has had hearings for the last week on the question of amending the packers and stockyards act, and it was developed there that there is a great deal of dissatisfaction among the commission men as to the operations of the packers and stockyards act. In one case the Secretary of Agriculture was enjoined by the Cudahy Co. in the United States circuit court as to the examination of the books. The Government lost in that action, but seemed to be content to rest there, and did not go to the Supreme Court at all. In another department of activity, in a case between the Department of Agriculture and the packers, the Attorney General advised that he had no jurisdiction, and he rested on that. It seems that the highest court has not been resorted to to set out the rights of the parties unequivocally.

The CHAIRMAN. The gentleman from Iowa has consumed 15 minutes.

Mr. KINCHELOE. They seem to have relied on the Daugherty opinion only. I was wondering whether the gentleman's committee in the preparation of this bill had been given any knowledge of that, as to why they had not gone into the Supreme Court instead of relying merely on the opinion of the United States circuit court or the Attorney General.

Mr. DICKINSON of Iowa. I may say to the gentleman that there was no mention of that in our committee.

Mr. KINCHELOE. There has been a great deal of dissatisfaction. One man by the name of Montgomery, at the head of these commission men, testified that in his judgment the packers and stockyards act had accomplished nothing. I would like to have the gentleman investigate that at his leisure some time, because if the law is not operative we had better repeal it.

Mr. HOWARD of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. HOWARD of Nebraska. I have not had opportunity to examine the bill carefully, but has the committee done anything with reference to a reprint of two books that are very desirable for circulation—one entitled "Diseases of the Horse" and the other "Diseases of Cattle"? Every Member coming from the agricultural zone is flooded with requests for these books.

The CHAIRMAN. The two additional minutes yielded by the gentleman to himself have expired.

Mr. DICKINSON of Iowa. Mr. Chairman, I yield myself two additional minutes.

Mr. HOWARD of Nebraska. And our only reply to those requests is that they are out of print.

Mr. DICKINSON of Iowa. Let me suggest to the gentleman that in this appropriation bill we could allow the money, as discussed before our committee by the gentleman from Texas [Mr. JONES], who has been interested in this reprint for a number of years, but we have not the authority to determine the method by which they can be distributed. It was ruled out of the bill on what Mr. JONES would say was a close point of order, but nevertheless it was ruled out, and until there is legislation which will provide for the distribution of those

books this money that we appropriate lies in the Treasury and has never been used, as I understand.

Mr. JONES. Why does it remain in the Treasury? The appropriation was made three years ago, and why does the department refuse to print them?

Mr. DICKINSON of Iowa. I could not tell the gentleman, except they say there is no proper legislative authorization for their distribution and no way by which they could be used.

Mr. JONES. The department could distribute them, for that matter, but in the meantime, if they had printed them, we would have had the legislation to distribute them.

Mr. DICKINSON of Iowa. It is a question whether or not we should make the appropriations and wait for the legislation, or whether we had better get the legislation first.

Mr. JONES. I appreciate the gentleman's position, but I do not think the department had a right to decline to print them when the House and the Senate determined they should be printed by the appropriation of the money.

Mr. DICKINSON of Iowa. Well, the situation is that there is a tie-up there on the question of authority for distribution. Now, with reference to the other items, the details will come out under the 5-minute rule, and I do not suppose there will be an item which will not be discussed. [Applause.]

Mr. Chairman, I reserve the balance of my time.

Under extension I am adding hereto statement of various amounts for specific purposes carried under separate subheads:

Certain projects involving more than one appropriation

	Allotment, 1929	Increase, 1930, in House committee bill
Biological abstracts:		
Library (salaries and expenses).....		\$5,000
Office of Experiment Stations (general administration).....		5,320
		10,320
Blister rust:		
Bureau Plant Industry (blister rust control).....	\$445,020	
Plant Quarantine and Control Administration (preventing spread of white pine blister rust).....	26,500	
	471,520	
Bulb work:		
Bureau Plant Industry: Horticultural crops and diseases—		
Bulb culture.....	20,400	
Bulb diseases.....	16,000	
Entomology (tropical and subtropical insects).....	15,000	7,500
	51,400	7,500
Cattle grub:		
Bureau Animal Industry (diseases of animals).....	50,000	
Entomology (insects affecting men and animals).....	27,500	
	77,500	
Cotton-deterioration studies:		
Bureau Plant Industry—		
Alkali and drought resistant plants.....	\$ 24,600	
Western irrigation agriculture.....	\$ 1,000	
Agricultural economics (marketing and distributing farm products).....	\$ 10,000	
	35,600	
Cotton root rot and wilt:		
Bureau of Plant Industry (cotton production and diseases).....	26,600	9,373
Chemical and soils (soil fertility).....	29,500	13,000
	56,100	22,373
Erosion, soil:		
Chemical and soils (soil survey).....	10,085	
Roads (agricultural engineering).....	9,000	2,150
	19,085	2,150
Forest research (McNary-McSweeney Act):		
Weather Bureau—out of Washington (forest-fire weather).....	25,000	
Bureau of Plant Industry (forest pathology).....	98,500	
Forest Service—		
Forest products.....	505,000	32,404
Range investigations.....	49,755	14,320
Silvical investigations.....	354,300	35,598
Forest economics.....		25,000
Forest survey.....		40,000
Entomology (forest insects).....	185,000	
Biological Survey—		
Food habits of wild animals and birds.....	5,700	
Biological investigations.....	4,400	7,957
	1,227,745	155,274

¹ All of alkali and drought resistant plants item.

² Cotton work at Yuma.

³ Cotton-ginning studies.

Certain projects involving more than one appropriation—Continued

	Allotment, 1929	Increase, 1930, in House committee bill
Fruit and vegetable utilization:		
Bureau Plant Industry (horticultural crops and diseases).....	\$38,100	
Chemistry and Soils (agricultural chemistry).....	44,610	\$5,000
	82,800	5,000
Marine meteorology:		
Weather Bureau—		
In Washington.....	21,690	10,260
Out of Washington.....	26,810	20,000
	48,500	30,260
Naval stores:		
Chemistry and Soils (naval stores research).....	15,000	4,160
Food, Drug, and Insecticide Administration (enforcement of naval stores act).....	37,825	
	52,825	4,160
Poultry work:		
Bureau of Animal Industry:		
Animal husbandry.....	111,650	\$ 15,000
Animal diseases.....	7,065	\$ 4,685
Entomology (insects affecting man and animals).....	1,000	
Agricultural Economics—		
Marketing and distribution.....	12,000	
Crop and livestock estimates.....	5,000	
Market inspection of farm products.....	12,000	
Market News Service.....	50,000	15,240
Food, Drug, and Insecticide Administration (enforcement of food and drugs act).....	10,000	7 27,924
	208,715	62,849
Spray residue work:		
Bureau of Plant Industry (horticultural crops and diseases).....	20,300	
Chemistry and Soils (insecticide and fungicide investigations).....	10,000	35,000
Entomology (deciduous fruit insects).....	5,000	
Food, Drug, and Insecticide Administration (food and drugs act).....	25,000	
	60,300	35,000
Strawberry work:		
Bureau of Plant Industry (horticultural crops and diseases).....	19,000	
Chemistry and Soils (soil fertility).....		4,800
Entomology (truck crop insects).....	1,200	2,000
Agricultural Economics—		
Farm management and practice.....	4,500	
Market inspection of farm products.....	9,500	
Market News Service.....	3,000	
	37,200	6,800
Sugar beets:		
Bureau Plant Industry (sugar plants).....	91,945	49,348
Chemistry and Soils—		
Agricultural chemistry.....	9,000	
Soil fertility.....	10,000	
Entomology (truck crop insects).....	30,111	18,000
Roads (agricultural engineering).....	1,500	5,000
	142,556	72,348
Sugar cane:		
Bureau Plant Industry (sugar plants).....	114,310	
Chemistry and soils—		
Agricultural chemistry.....	15,000	
Sirup and sugar investigations.....	20,000	
Soil fertility.....	20,000	
Entomology (cereal and forage insects).....	21,640	
Roads (rural engineering), investigation of drainage of sugar-cane soils.....		10,000
Agricultural Economics—		
Enforcement of warehouse act.....	100	
Crop and livestock estimates.....	2,500	
	193,550	10,000

⁴ Sulphur dioxide content of dried fruit.

⁵ Standard breeding.

⁶ Pathological diseases.

⁷ Inspection of poultry for canning and preparation of food products.

Mr. BUCHANAN. Mr. Chairman, I yield 30 minutes to my colleague from South Carolina [Mr. HARE].

Mr. HARE. Mr. Chairman and gentlemen of the committee, my purpose in rising at this time is to give notice to the House that at the proper time and place I will offer an amendment to the pending bill increasing the appropriation for what is known as the market news service in the Department of Agriculture. My purpose to-day is to show that the market news service in the United States is not only a very valuable service but that the appropriations annually made are entirely inadequate to meet the needs of those for whom it is intended to serve. My reason for asking for this increased appropriation is based upon

sound policy, a precedent already established by the Government and because of its fairness toward the producers of farm crops in this country, thereby placing the assistance rendered by the Government on a parity with that rendered to industry.

I can best illustrate the justification of such aid by pointing out just what the Government is doing to aid and stimulate American industry and enlarging its activities in foreign countries. You are all familiar with the activities of the Bureau of Foreign and Domestic Commerce in the Department of Commerce. You are familiar with its purposes. You know it was established primarily to serve as an agent for industry in this country in locating and finding markets for manufactured products of the United States in foreign countries. It is not my purpose here to criticize the activities of this bureau or to criticize the work of the department, of which it is a part, but, on the contrary, I want to emphasize its importance, its significance, and its value to industry, and in doing so, I want to show conclusively that our Government ought to use a similar or a corresponding agency in promoting the business of agriculture.

I am going to read for the information of the House a part of the report of the director of this bureau, as found in the Annual Report of the Secretary of Commerce. On page 94 of the report for the past year I find the following:

The trade-promotive work of the bureau, of both its staff abroad and its organization within the United States, has been a vital factor in the steady expansion of American exports during the recent years. The expansion has been particularly great in the case of manufactured goods, the class in which the selling efforts counts most. American exports of finished manufactures last year reached the huge total of \$2,061,000,000 and, notwithstanding the lower prices than had prevailed in any other postwar year, were 4 per cent larger than in 1926-27 and 70 per cent larger than in 1921-22. Particularly conspicuous have been the gains during recent years in the exportation of motor vehicles, machinery, chemicals, and other highly elaborated factory products.

I want to emphasize the statement made by the director where he shows that the American exports of finished manufactures increased 70 per cent in the five years from 1922 to 1927. Mr. Chairman, I am anxious that this point should be made clear, that through the instrumentality and through the agency of this bureau of the Government, the foreign exports of manufactured goods have increased 70 per cent within five years. Think of it, 70 per cent within five years. I emphasize the statement because it shows the possibilities of a governmental agency in increasing the trade of this country, and it shows, on the other hand, what the Government could do in increasing, expediting, and making more efficient the marketing facilities within the United States if the same or corresponding efforts were made in behalf of agriculture. On page 100 the director says:

To place a dollars and cents value on many of the bureau's services obviously is impossible, so intangible are they and so indirect the returns; even the firms aided can not themselves always trace accurately the proportion of their exports attributable to bureau assistance.

Foreign commerce officers last year reported known sales and savings amounting to \$45,000,000, this figure covering only a very small percentage of the clients served by the bureau's 51 offices abroad.

In this connection I want to cite just a few illustrations or examples from the report already referred in order to show the activities of the bureau in behalf of industry. I will incorporate the most of them in my remarks.

Mr. JONES. Will the gentleman yield?

Mr. HARE. Yes; I gladly yield.

Mr. JONES. I am very much interested in what the gentleman is saying, and I think the gentleman is striking at the real problem of agriculture, and that is marketing. I found in a hurried glance through this bill that the department is securing some \$6,000,000 to be applied on the marketing and distributing end of the business and over \$60,000,000, exclusive of roads, on the various problems of production. Does not the gentleman think this is a rather unbalanced way to strike at the problem, when we have already mastered production to a far greater extent than we have mastered distribution?

Mr. HARE. I can say that, in my opinion, the problem of marketing is the one great problem within the near future not only for agriculture but for every other industry in the United States.

Mr. JONES. Is not that the main problem we have been trying to solve here all along with reference to agricultural problems—the marketing problem?

Mr. HARE. That is absolutely true.

Mr. JONES. And considerably less than 20 per cent of the appropriations carried in this bill, which are for the Department of Agriculture, are in any way touching or relating to the problem of distribution or marketing.

Mr. HARE. I think the gentleman is absolutely correct, because, as a member of the Committee on Agriculture, I know he is as well posted or well advised on this point as any man in Congress, and I am glad to have an expression from him on the subject.

As I have just stated, I want to point out a number of particular instances where this bureau through its agents and employees has contributed wonderfully toward the sale of manufactured products of the United States. I will not make reference to all of them, but will quote a number of illustrations given in the report:

Bookkeeping machines: Trade-promotion work of the Prague office included the establishment of an agency in Czechoslovakia for a New York manufacturer of accounting machines, which placed orders approximating \$100,000.

Bridge plates: Over a year ago the Habana office called the attention of purchasers in Cuba to the value of a patented steel plate for bridges manufactured by a firm in the United States, and as a result this device is now being bought in Cuba by the carload.

Camp cots: Assistance given to a New York manufacturer of camp cots by the bureau's Calcutta office increased this firm's yearly business in India from \$800 to \$40,000.

Canning machinery: An order for \$7,000 worth of Illinois canning machinery was directly traceable to the Brussels office.

Compressed gases: A report dealing with the marketing of compressed gases in the United Kingdom prepared by the bureau's London office gave information that enabled a Massachusetts firm to sell \$10,000 worth of sulphur dioxide.

Druggists' supplies: Services rendered by the bureau's Cairo, New York, and Chicago offices are acknowledged by an Egyptian druggist to have resulted in \$200,000 worth of business with American manufacturers of divers products.

Electrical equipment: The commercial attaché in Ottawa received a request from a firm in western Canada interested in electrical refrigerators and radio equipment. United States manufacturers of these articles have now sold at least \$75,000 worth of this material to this Canadian concern. Installation difficulties were cleared away for a Wisconsin manufacturer of electric refrigerators by the bureau's office in Manila.

Excavator parts: Assistance to a New York firm by the Calcutta office brought about the conclusion of contracts for excavator parts totaling \$25,000.

Fertilizers: Trade-mark difficulties which prevented a New York manufacturer of fertilizer chemicals from placing his products on the Korean market were cleared away by the Tokyo office and brought \$72,000 during the year.

Fish meal: New York and Maryland exporters of fish meal have obtained \$70,000 worth of business from a Hamburg concern with which they were put in touch by the trade commissioner there.

Flash lights: The Bogota office obtained a business connection for a New York manufacturer of flash lights, resulting in \$23,000 worth of orders for shipment to Colombia.

Grease cups: Through the Berlin office a New York manufacturer of grease cups found a buyer whose orders last year amounted to \$500,000.

Heating equipment: Information transferred by the Ottawa office has enabled a Kentucky manufacturer of heaters and fireplace furniture to place \$35,000 worth of Canadian business in 10 months.

Insecticides: A New Jersey manufacturer has sold \$10,000 worth of insecticides to Denmark, Germany, China, and Mexico through agency arrangements made by bureau offices in those countries.

Lawn mowers: Information furnished by the London office enabled a New York manufacturer to sell \$50,000 worth of his lawn mowers in England.

Linoleum: The recently opened Singapore office of the bureau referred a Pennsylvania maker of linoleum to a firm that placed a \$25,000 order.

Locomotive supplies: The Vienna office assisted a Delaware firm in negotiating with Austrian railways contracts that involved locomotive supplies which amounted to \$550,000.

Paints: An American firm dealing in pigments, white lead, etc., received last year a total of \$70,000 in orders from the South African agency which was arranged with the help of the bureau's Johannesburg office.

Public-works contracts: A Massachusetts firm obtained street-paving contracts from Argentine municipalities amounting to \$1,500,000 as a result of recommendations made by the bureau's Buenos Aires office, which office also facilitated the obtaining by two New York firms of a municipal building contract approximating \$2,700,000.

Road-making machinery: Twelve American concrete mixers and six gasoline-driven shovels, worth approximately \$150,000, were sold in Spain for a Wisconsin manufacturer by an agent whose appointment had been arranged by the bureau's Madrid office. This office was also helpful in the booking of orders for 60 dump cars by an American manufacturer of industrial equipment.

Shovels: Advice from the Montreal office to the effect that the city of Montreal expected to be in the market for steel shovels enabled firms in the United States to quote for this business and a Pennsylvania corporation secured the order, amounting to \$24,500.

Steel: A Pennsylvania steel company about to terminate its operations in Argentina was induced to stay in the market by the commercial attaché in Buenos Aires, who pointed out the favorable turn of affairs coming in Argentine trade, and shortly afterwards the company obtained \$1,000,000 worth of business. In China another representative of a Pennsylvania steel company, whose stop in Shanghai was limited to a few hours, was placed in touch by the trade commissioner with an importer who gave orders amounting to \$30,000.

Storage batteries: A \$19,000 Canadian contract resulted when the bureau's office in Toronto brought an inquiry for storage batteries to the attention of United States manufacturers.

Tractors: Assisted by the bureau's Melbourne office in making connections with Australian firms, manufacturers in Illinois, Iowa, and Wisconsin sold \$72,000 worth of tractors in that Commonwealth. The Bucharest office helped a California manufacturer of tractors in concluding agency arrangements that resulted in \$36,000 worth of sales.

Traffic lights: The following of recommendations made by the Sao Paulo office enabled a New York manufacturer of traffic-signaling equipment to obtain a \$240,000 contract from a Brazilian city.

Trucks and busses: An agent in Uruguay obtained for the manufacturer by the bureau's Montevideo office disposed of a bus and placed an initial order for three trucks.

Vacuum cleaners: A Minnesota manufacturer of vacuum cleaners was aided by the Wellington office in establishing a sales organization to cover New Zealand, which has done \$70,000 worth of business in three months.

Woodworking machinery: Recommendations made by the Stockholm office and other assistance have been responsible for \$127,000 worth of additional sales for a New York exporter of woodworking machinery.

Yarn: A North Carolina yarn spinning and finishing concern gave its agency to a British firm with which it was placed in touch by the bureau's London office. In the 12 months ended May 30, 1928, the British firm sold \$97,000 worth of yarn in this very difficult market.

Zinc products: The Paris office assisted an American manufacturer of zinc products in establishing connections with several French consumers, and goods to the value of \$14,000 have been sold thus far.

As I said at the outset, it is not my purpose to criticize the activities of this bureau but to show that with the proper assistance, its agents and employees are in a position to locate markets and enlarge the marketing opportunities for various industries of our country.

These illustrations are sufficient to show us conclusively that the agents of this bureau are in a position to enlarge and do enlarge the marketing possibilities of American products in foreign countries, and the point I am endeavoring to emphasize is the contrast between what the Government is doing to assist industry in marketing its products and how little it is contributing toward helping the farmer in marketing his crops, particularly perishable crops. In other words, as I see it, you appropriated for this bureau last year approximately \$3,000,000 for the purpose of finding markets for our manufactured products and you see from the above illustrations the manufacturer gets the advantage of it, but when a farmer goes up to the Department of Agriculture and asks to be advised as to the number of carloads of watermelons in the city of Detroit to-day, the number in Pittsburgh, the number in Boston, the number in New York, or the number in any other city of the United States and the probable number that will be in each to-morrow, he is confronted with the statement, "We may have the information but we are unable to give it to you until you pay the cost of getting it." In other words, you have appropriated millions of dollars to enable the Bureau of Foreign and Domestic Commerce to find a market for the products of the manufacturer, get in touch with the purchaser and bring them together in such a way as to increase the sales of the former to the extent of \$45,000,000 or more annually, and the manufacturer is not called upon to pay one penny of the expense incident to the transaction, but when the farmers of this country have produced a perishable farm crop and they want to find a market for it, a market that is the least congested, a market where the price will probably be the highest, the Federal Government says in effect, "We can not do it unless you pay the cost incident to securing the information."

Mr. CRISP. Will the gentleman yield?

Mr. HARE. Gladly.

Mr. CRISP. What does the gentleman mean by that statement? Has the department the information, but refuses to give it out, or have they not the information because the Congress has not appropriated sufficient money for them to obtain it?

Mr. HARE. My information is they have the information in many instances and furnish it to those sections that are willing to go down in their pockets and put up the money for the cost of securing it. In my State I have inquired as to whether or not the department would be able to furnish to the truck growers of the State such information, and have been told that it was not possible to do so with funds available.

Just here I want to insert in the RECORD a letter from the Acting Chief of the Bureau of Agricultural Economics of the Department of Agriculture which explains itself:

UNITED STATES DEPARTMENT OF AGRICULTURE,
BUREAU OF AGRICULTURAL ECONOMICS,
Washington, D. C., December 6, 1928.

Hon. B. B. HARE,
House of Representatives.

DEAR MR. HARE: In answer to your telephone request for information relative to market-news service on fruits and vegetables given in the State of South Carolina, I regret to advise that no office for the collection and distribution of such information has been maintained in that State since the spring of 1926. That year and during previous seasons a market-news office was operated at Charleston during the white-potato shipping season. A great many growers and shippers in the State receive market reports on various commodities, but since that time such reports have been mailed from offices located in other States and from Washington, D. C.

With the increasing popularity of the market-news service on fruits and vegetables, it has been impossible to satisfy all of the demands placed upon the service. An indication of this popularity is evidenced by the willingness of State or local organizations, growers, and shippers to pay part of the cost of the service in particular localities. This practice has enabled the service to operate at a considerable saving at the various points, which saving has been utilized to open offices in other districts where a real demand existed and where similar financial cooperation was available. This practice has been followed until the cost of all but one such office is paid for in part by State or local organizations or groups of local individuals. Neither the State of South Carolina nor the local factors at Charleston were willing to support financially an office at that point. Therefore, in justice to other territories, the money formerly expended there was utilized elsewhere. The kind of offices above referred to are operated each year for varying periods of from three weeks to seven months.

Very truly yours,

C. W. KITCHEN, Acting Chief of Bureau.

It is not my purpose here to offer any criticism of the Department of Agriculture, because I believe its agents and employees are doing the best they can with the funds available for the market news service, but the point I am making is that Congress has been very liberal in its appropriations to be used in assisting industry in marketing its products, but seems to expect the farmer to bear the entire burden of marketing his crops. It is an unfair discrimination in favor of the former that should be removed.

There are 25 illustrations set out in the report already referred to, 25 particular instances, 25 individual manufacturers who, according to the report, through the efforts, through the instrumentality, through the agency of this bureau, were enabled to increase their sales last year to the extent of \$7,457,000, or an average of \$298,300 for each concern or business enterprise. In other words, a careful study of the report forces one to the conclusion that the agents, representatives, or employees of the Government have in effect acted directly or indirectly as salesmen for individual American manufacturers or manufacturing enterprises. Let me read again what the report says:

Assistance given to a New York manufacturer of camp cots by this bureau's Calcutta office increased this firm's yearly business from \$800 to \$40,000.

Through the Berlin office a New York manufacturer of grease cups found a buyer whose orders amounted last year to \$500,000.

The Vienna office assisted a Delaware firm in negotiating contracts which involved locomotive supplies amounting to \$550,000.

As a result of recommendations made by the bureau's Buenos Aires office a Massachusetts firm obtained street-paving contracts from Argentine municipalities amounting to \$1,500,000.

As I have already stated, I am not charging any irregularity on the part of Government agents or employees in bringing the manufacturer and the purchaser of his products together, because they are simply discharging the duties placed upon them, but I simply want to emphasize the fact that when the producers of farm crops ask the Government to provide for them a similar service they are told they will have to bear the expense, yet I am unable to find where the manufacturers have been called upon to pay for the services rendered them.

Mr. BLAND. Will the gentleman yield?

Mr. HARE. I will.

Mr. BLAND. To what extent would the gentleman's amendment increase the appropriation?

Mr. HARE. My idea is to increase the appropriation \$1,000,000.

Mr. BLAND. I am heartily in accord with the gentleman, because of my interest in the proposition. I wanted to know

whether the amendment would take care of the various localities throughout the country.

Mr. HARE. My idea is to increase the appropriation \$1,000,000. I know the gentleman is interested, because his State to-day is a great producer of perishable farm crops.

Mr. BLAND. I appeared before the committee in advocacy of this matter.

Mr. HARE. Every State in the Union will reap an advantage. In my State the truck and fruit growers last year produced 21 different varieties of fruits and vegetables to such an extent that they were shipped in carload lots, not mentioning those shipped in smaller quantities. My idea is that the Government ought to be in a position every evening to advise any locality in this country how many carloads of a perishable farm crop there are in any particular market.

It ought to be able to tell whether in Chicago there are 5, 10, or 50 carloads, and how many have been directed or are on the way to the city. If the producer has that information, he is in a position to know whether to make his consignment to Chicago or whether he should send it to St. Louis, New York, Pittsburgh, Boston, or some other market where the supply is limited. The carload shipments as a rule are not directed to any particular city when they leave the shipping point, but are directed to some central point and consigned from there. For example, nearly every carload of perishable crops from the South first goes to the Potomac Yards and is directed from there to some particular market.

Mr. LA GUARDIA. Will the gentleman yield?

Mr. HARE. I yield to the gentleman from New York.

Mr. LA GUARDIA. This summer I investigated that matter, and in Berlin they have a central office and receive telegrams every night from every section of the country, and also the position of the railroad cars. They distribute their perishable products in that way. They have a perfect system in Germany working along these lines.

Mr. HARE. I am glad the gentleman is familiar with the subject, because he should be of considerable assistance in getting this appropriation.

Mr. GARBER. Will the gentleman yield?

Mr. HARE. I yield.

Mr. GARBER. It is my understanding that the Department of Agriculture has a daily news service. Does not that include daily reports on all farm products throughout the United States?

Mr. HARE. My information is that the department has the information, but will not impart it until the producers of a locality or a municipality or the State advances funds necessary to defray the expense in securing the information and forwarding it to them.

Mr. GARBER. I have been informed that such information is broadcasted over the radio.

Mr. HARE. To some extent that is true.

Mr. LA GUARDIA. Is not the great difficulty the fact that the distribution of market reports are not conducive to the best interests of the consumer and producer? They are based on the actual market price, but we do not know what is back of the conditions that make that price. The gentleman will run afoul of the middlemen.

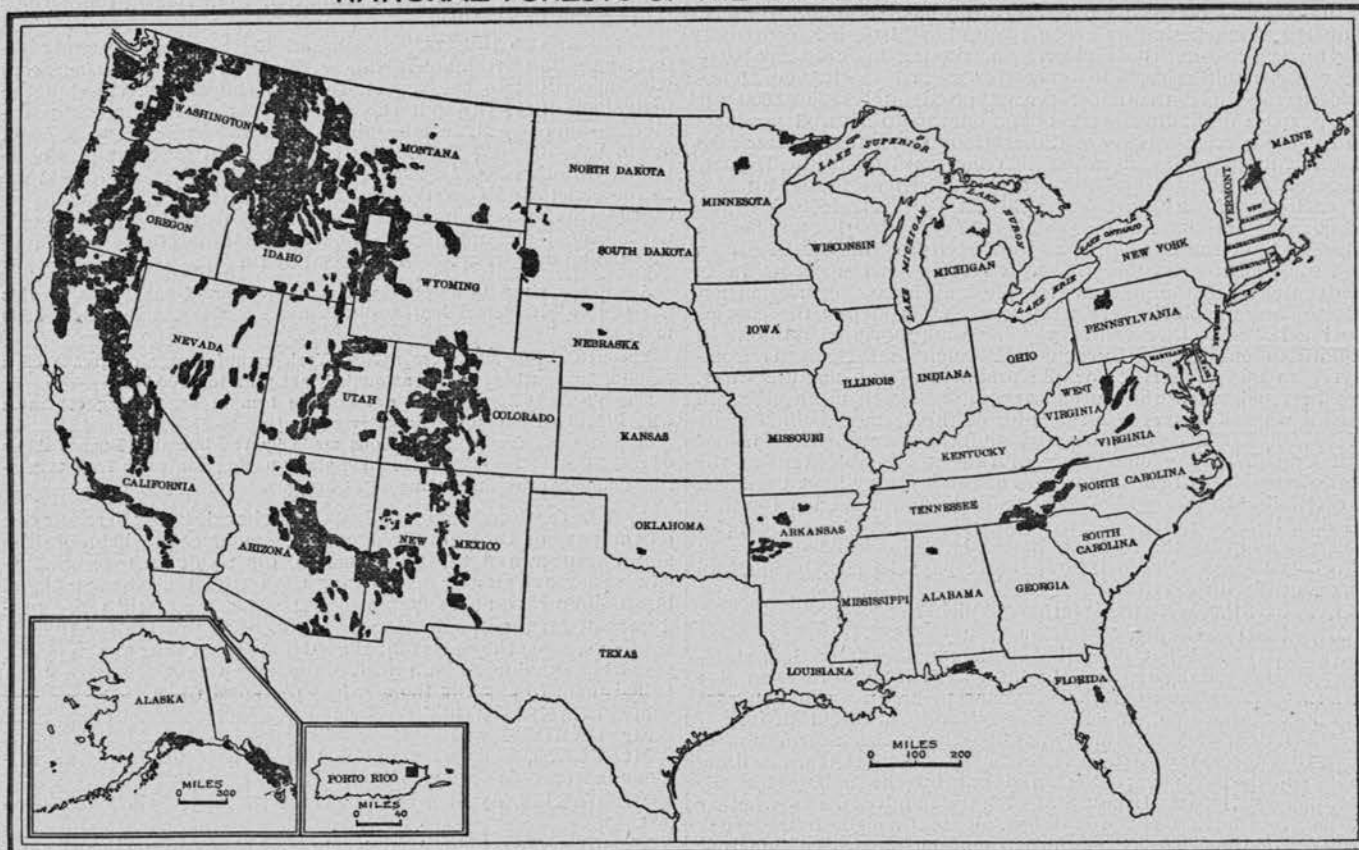
Mr. HARE. If I am furnished with the information every evening at 5 or 6 o'clock as to the number of carloads of watermelons, for example, in the city of New York, the gentleman's home, and the number of carloads that are on the way to that city, I will know whether or not to ship my carload of melons there or to some other market. That is the kind of information the farmer wants. It is simple; it is easy. Of course, it will take some time and some money, but I contend that in all fairness, in all justice, this Government should lend such aid to agriculture as it is lending to industry in the marketing of its products. It is an easy matter and a simple matter, and at the proper time in the consideration of this bill I hope to offer an amendment increasing the appropriation for the Marketing News Service as much as \$1,000,000, and I hope to have sufficient support to insure its passage.

I yield back the remainder of my time.

Mr. DICKINSON of Iowa. Mr. Chairman, I yield 20 minutes to the gentleman from Washington [Mr. SUMMERS].

Mr. SUMMERS of Washington. Mr. Chairman and gentlemen, the timber supply of the United States will measure our Nation's progress in the centuries of to-morrow. The Pilgrim Fathers chopped and burned their way in from the Atlantic; their descendants are lashing the Pacific with spruce and fir and hemlock—the growth of centuries. Erosion depleting the soil twenty times faster than the farmers' crops is following in the wake. We imitate the Chinese of old in our timber prodigality. They now carry soil in wheelbarrows to build their farms on rocks left bare by timber removal and erosion. Billions in farm products and millions of citizens depend on our forests for a

NATIONAL FORESTS OF THE UNITED STATES



graduated water supply. The playgrounds and the game preserves of a nation are at stake. American industry, present and future, depends on timber. Federal administrators, some private owners and some legislators, see and consider the handwriting on the wall. Let us survey the situation and plan wisely for to-morrow.

The map before you shows the national forests of the United States. You will observe some small ones located in the East and South and in the central part of the country, but most of them are located in the West. If these national forests were condensed into a single area, starting in the northeast tip of our country, they would cover the areas of the six New England States and New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, and North Carolina. However, there are some privately owned lands embraced within these forests which, if deducted, would exclude the area of North Carolina, leaving 13 other States as representing the solid area of the national forests, distributed through 25 States, Alaska, and Porto Rico. Alaska is drawn on a greatly reduced scale. It contains 20 per cent of our national forests.

The three charts before you graphically tell the story of a century of timber slaughter.

The third chart to which I call your attention shows with black dots the different States that are consuming more lumber than they are producing. The dot in Illinois represents about 2,000,000,000 board feet that that State is consuming in excess of the amount produced in that State. I wonder if you have any idea what 2,000,000,000 board feet means? I have tried to reduce it to something a little easier to comprehend. The amount of lumber consumed in Illinois in excess of what that State produces would build a 3-foot sidewalk five times around the world. The State of New York, once the lumber-production center of the United States, is now consuming enough lumber, produced outside the State, to build a 3-foot walk four times around the earth. The State of Pennsylvania, once the source of the Nation's lumber supply, is now consuming enough lumber, produced outside of that State, to build a solid board fence 12-feet high around the globe.

You have represented here a great stretch of States extending from Massachusetts in the Northeast through the former lumber-producing areas of New York and then later of Pennsylvania, and through Ohio, Indiana, Illinois, and on to California; all consuming very much more lumber than they are producing. The light circles with the barred lines represent States that are

CHART No. 1

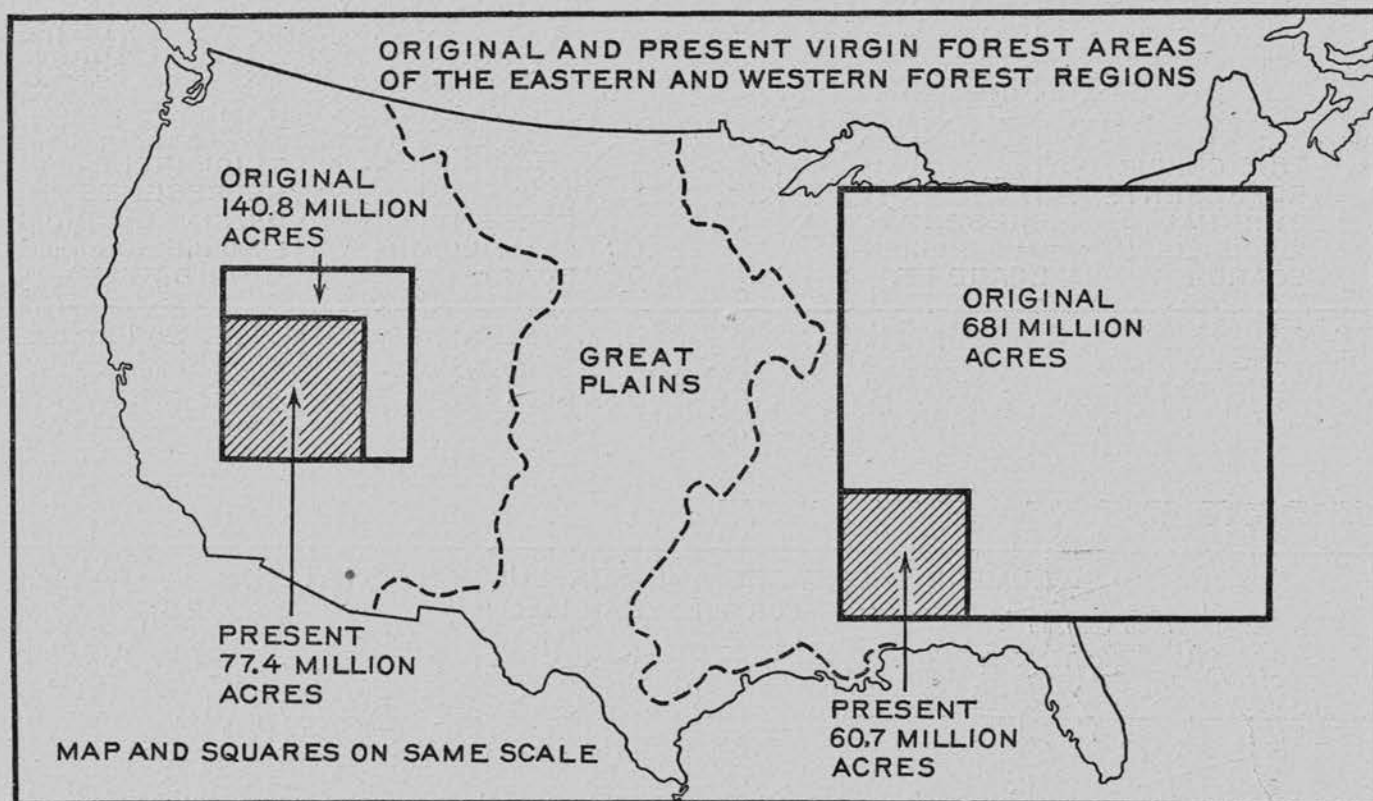


Chart No. 1, to which I now refer [pointing], shows the original and the present virgin areas of the eastern and the western forests. By acres it shows that originally there were 681,000,000 acres east of the Great Plains. That is now reduced to 60,700,000 acres. West of the Great Plains the original area was 140,800,000 acres. This area is now reduced to 77,400,000 acres.

Chart No. 2 [pointing] is perhaps more descriptive. The circles to which I point represent the original and the present timber supply of the eastern and western forest areas, expressed in board feet of standing timber. Originally we had 3,400,000,000,000 board feet east of the Great Plains, which is now reduced to 855,000,000,000 board feet. In other words, one-fourth of the eastern forests remain and three-fourths have been consumed. In the western area originally there were 1,800,000,000,000 board feet, of which 1,360,000,000,000 remain. Approximately one-fourth of the western forests have been consumed and three-fourths are standing. The eastern forests originally contained about two-thirds of the stumpage of the entire country. However, there is in the western forests at this time approximately twice as much standing timber as is found in all of the eastern forests.

producing more lumber than they are consuming. You will note that in the State of Washington, the State of Oregon, and the State of Idaho there is a large excess production. In Montana a small excess, and in Texas also, with a large excess in Louisiana and Mississippi; and then smaller in Alabama, Georgia, South Carolina, North Carolina, Virginia, and Maryland, and perhaps a few other States; but 27 of our States are consuming more timber than they are producing.

Mr. LEATHERWOOD. Mr. Chairman, will the gentleman yield?

Mr. SUMMERS of Washington. Yes.

Mr. LEATHERWOOD. Mr. Chairman, I think the gentleman stated what he did not intend to state. He spoke of the State of Washington and some others producing more timber than they were consuming. Did not the gentleman mean that they are producing more lumber?

Mr. SUMMERS of Washington. Yes; they are producing more lumber.

Mr. LEATHERWOOD. As a matter of fact you are reducing your timber.

Mr. SUMMERS of Washington. Yes; we are reducing our timber supply, but we are producing great amounts of lumber.

CHART No. 2

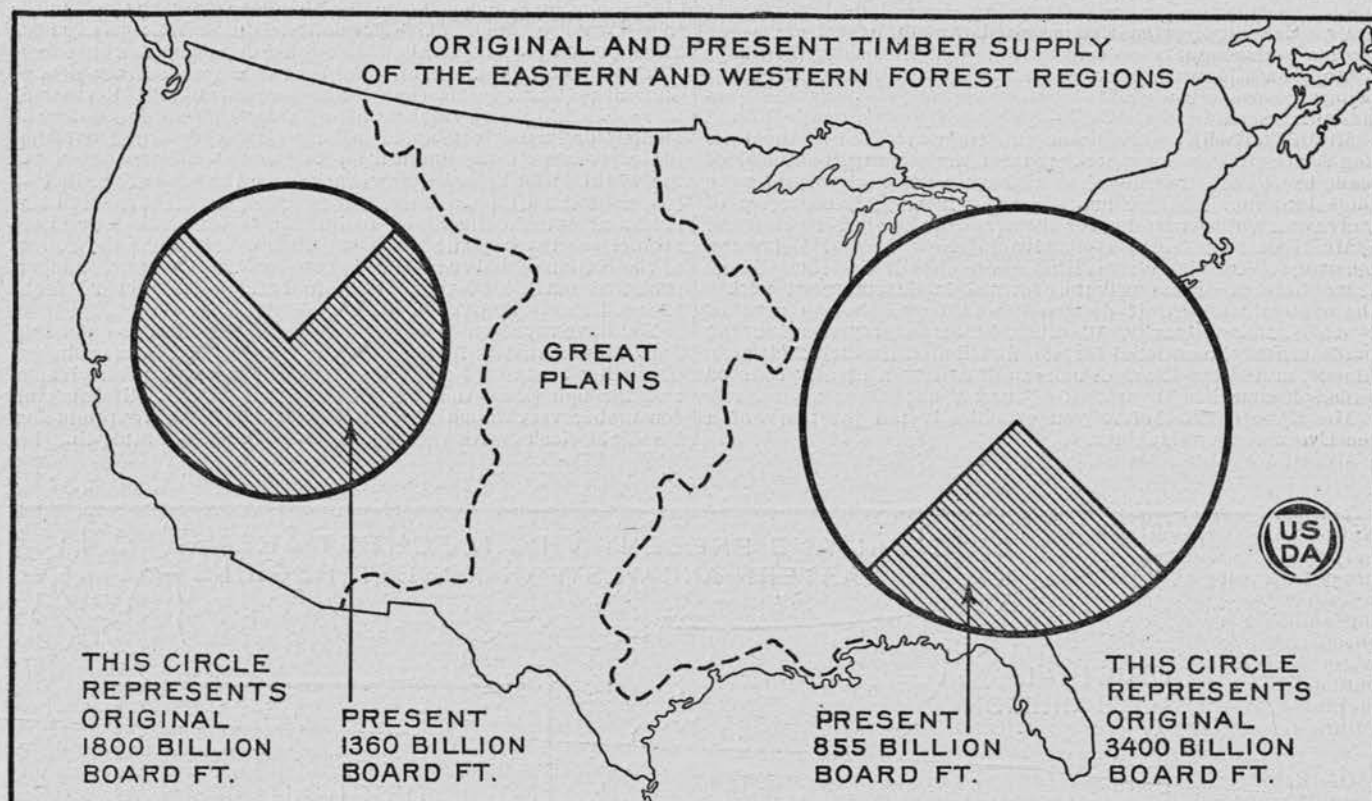
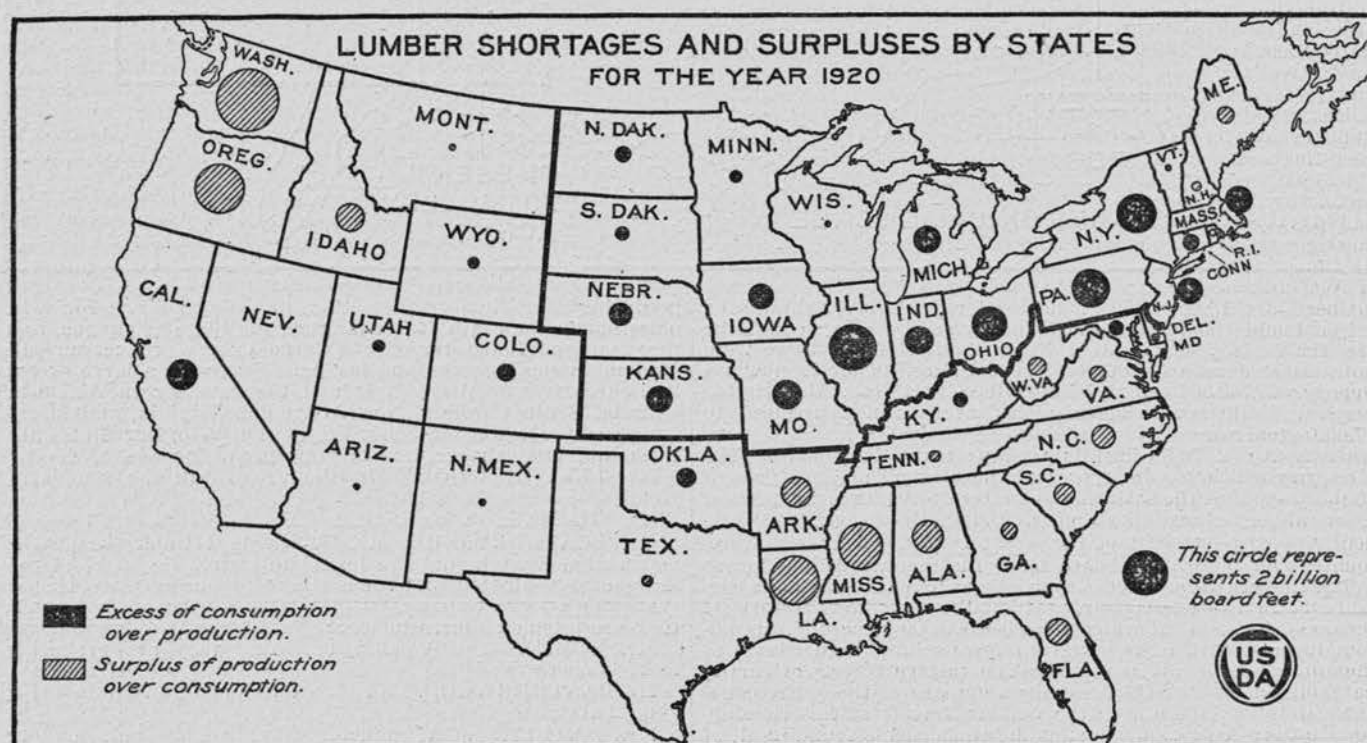


CHART No. 3



Perhaps at some points I have said timber when I meant lumber.

Mr. KINDRED. Are your great forests of redwood in Oregon being rapidly reduced?

Mr. SUMMERS of Washington. Yes; the supply of timber is being reduced. The charts I have here represent the total standing timber.

Mr. KINDRED. May I ask the gentleman one more question? Has the gentleman given any attention to the suggestion made by the bill introduced by Senator FLETCHER providing for the taking over of the Everglades of Florida for the purpose of increasing the timber supply?

Mr. SUMMERS of Washington. Timber does not grow extensively in the Everglades.

Mr. KINDRED. Is that true of all parts of the Everglades—the western and northern?

Mr. SUMMERS of Washington. I think there is some in parts of the Everglades of Florida, but there is very little timber in the Everglades proper, although there is some on adjacent land.

Mr. KINDRED. But in western and northwestern parts of the Everglades?

Mr. SUMMERS of Washington. There is some timber there.

OUR NATIONAL FORESTS

The national forests of 158,000,000 acres are one of the Nation's best investments. They are paying present dividends in present public service and at the same time they are a great reservoir of timber, forage, water, and recreational resources for the future. At the present time they are furnishing annually range forage for nearly 8,000,000 cattle, horses, sheep, and other livestock, over a billion board feet of timber, water for irrigated crops valued at more than \$600,000,000, and outdoor recreation for about 18,000,000 people. And this remarkable present use is obtained without any mortgage on the future productivity of the forest lands under administration.

VANISHING TIMBER RESOURCES

Of timber it is estimated that the national forests contain about 552,000,000,000 board feet, approximately one-fourth of the standing timber in the United States. This is a timber reservoir that we may well contemplate with satisfaction, for it promises to be a big factor in tiding us over the period now foreseen between the cutting out of the last of the privately owned virgin timber and the maturing of second-growth supplies. The forests of the West, in which most of the national forest timber is located, contain the last great body of virgin timber in the country.

The lumber industry of the past has moved the center of its activities from region to region, cutting the timber as it went and making no adequate provision for a new crop on the cut-over lands. Of our 470,000,000 acres of forest land more than 250,000,000 acres that have been cut over are only partially productive and millions of acres are without valuable tree growth. Moving at great and increasing speed as logging and milling machinery has increased in efficiency and tempo, the industry has left a plain trail from the white-pine forests of New England south and west to the Gulf and the Pacific Ocean.

In 1860, Pennsylvania on the Atlantic, led the Union in lumber production. In less than half a century the State leadership had passed to Washington on the Pacific. Pennsylvania now must go outside its boundaries for more than three-quarters of its timber requirements, and in 1926 imported from the State of Washington alone more than 167,000,000 feet of softwood lumber.

The lumber leadership began at the far northeastern tip of the Union, Maine leading in production in 1819. Ten years later the leadership had moved to New York; in 1859 it reached Pennsylvania; in 1869 the Lake States; and by 1905 it had reached the far northwestern tip of continental United States in Washington, where it has remained except for the year 1914 when Louisiana led. From Maine to Washington in less than a century is a dizzy speed for the shifting of the center of one of the most important industries of the Nation depending upon a renewable natural resource. Lumbering in the past has evidently been essentially nomadic. It can be so no longer in this country; for there is no longer any place to which it may move.

The timber that we have in forest regions now being exploited and what we can raise as a crop is all we can look to for our future supplies. In the country as a whole we are cutting timber four times as fast as we are growing it; on the national forests the annual cut is balanced by the annual growth. Furthermore, national forest timber sales are made conservatively and with a view to maintaining permanent industries and permanent communities dependent on those interests. No cutting is done in order to liquidate an investment, as is often the case with

privately-owned timber, without regard to the need for the product or the permanency of the operation. The timber output of the national forests could be more than doubled to-day; but the Government being under no necessity to liquidate is not in a hurry to sell and will put the timber on the market only in accordance with actual needs and for the stabilization of industry.

Mr. GARBER. Will the gentleman yield?

Mr. SUMMERS of Washington. I will.

Mr. GARBER. What are the restrictions on the cutting of timber in the national forests?

Mr. SUMMERS of Washington. It is all under the direct control of the Bureau of Forestry. Ripe and fallen timber is always cut first.

Mr. GARBER. As I understand it, there are no restrictions in regard to privately owned property?

Mr. SUMMERS of Washington. There are none.

Mr. GARBER. And no requirement as to future growth?

Mr. SUMMERS of Washington. Except there may be some restrictions in different States that have enacted such laws. A few years ago the Congress enacted legislation cooperating with private owners, to encourage reforestation but nothing mandatory.

Mr. GARBER. Take the gentleman's own State, the principal industry of which is the manufacture of lumber. Now, what steps has the State of Washington taken to preserve and conserve the forest resources so as to provide for a new growth?

Mr. SUMMERS of Washington. Our State is cooperating with the Federal Government and acting independently to a certain extent in behalf of reforestation, and some private owners are engaged in reforestation, but all of these agencies should be speeded up.

Mr. WILLIAMSON. If the gentleman will permit, the thought occurred to me in connection with this matter in which I have been very much interested for a good many years, whether or not the Government would have authority under the Constitution to step in and make a regulation which would control the cutting of timber on privately owned lands. Has the gentleman had opportunity to investigate that question?

Mr. SUMMERS of Washington. I have not. I doubt, however, the constitutional authority to do that.

Mr. GREEN. If the gentleman will yield, I would like to know if our bill provides for the purchase of additional lands within or adjacent to the national forests?

Mr. SUMMERS of Washington. There is an inclusion of \$1,900,000 for that purpose. There are a great many forest-reserve items in the bill. I can not recall the details, but I am taking occasion to lay some facts before the House at this time to quicken interest in our national forests and our privately owned forests.

Mr. SCHNEIDER. The National Forest Commission has authority under the law to extend the areas of the national forests. The Forest Service commission has that authority under the law to extend the areas.

Mr. SUMMERS of Washington. Legislation was enacted a few years ago which makes it possible to acquire areas practically surrounded by national forests.

Mr. GARBER. Is that by purchase of cut-over land?

Mr. SUMMERS of Washington. It is by purchase or exchange or gift. The lands may or may not be cut over.

Mr. GARBER. What appropriations, if any, have been made for that purpose? Does this bill carry an appropriation for that purpose?

Mr. SUMMERS of Washington. It does. All lands exchanged or purchased are appraised. The exchanges are made on the appraisal value and not acre for acre.

Mr. LEATHERWOOD. Will the gentleman yield?

Mr. SUMMERS of Washington. I will yield.

Mr. LEATHERWOOD. The gentleman touched upon the question. If the Forest Service has power to regulate public lands covered by forests, why is it some of the choice districts are all slaughtered at this time?

Mr. SUMMERS of Washington. It would be very interesting if the gentleman would present to the House at a later date any information he has along that line. I do not have such information.

Mr. LEATHERWOOD. Presumably the gentleman from Washington has traveled in the Northwest, and the gentleman knows as well as I know that many districts have been slaughtered at this time.

Mr. SUMMERS of Washington. Within national forests?

Mr. LEATHERWOOD. Yes.

Mr. SUMMERS of Washington. I am not in possession of that information.

NATIONAL FORESTS CONSERVED

Through this conservative policy to which I have referred, the cutting of virgin timber on the national forests is spread over a long period of time; timber that would be wasted because of overmaturity and decay is utilized, and provision is made for full yields in the future at a time when they will be badly needed.

To make the national forests of greatest value for the present and future timber supply of the United States they have been studied for many years. As opportunity arises they are being organized into a large number of timber farms, each managed under definite plans for permanent wood production.

Plans for the management of these timber farms are made as they are needed to guide operations on parts of the forests where transportation facilities make the cutting and removal of timber feasible. They give definite answers to such questions as what shall be the area unit from which a "continuous supply of timber" is to be obtained; how much timber can be cut from that area annually or by decades and still have the growth on the whole unit replace the amount cut; what conditions must govern the cutting in order to obtain the best crops of timber for future cutting; what bodies of overripe or deteriorating timber need cutting promptly; how the greatest aid can be given to local industrial and community stability through the provision of employment in woods work and of raw material for the manufacture of forest products; and, finally, what definite areas of timber are to be offered for sale during the next 10 or 20 years.

Under such plans the future availability of definite quantities of timber is assured and business enterprises can depend upon it. Further, the administration of each area can be organized on a permanent basis, since the amount of timber to be cut during each year or other period is known. On the Harney National Forest, in South Dakota, for example, the cutting and manufacturing of timber is the chief business of several small towns, each of which knows that the timber tributary to it is being cut no faster than it is being replaced and therefore that it need not fear the fate of most sawmill towns of the past. Only some major disaster, such as a series of large forest fires or a great epidemic of tree-killing insects, will imperil the continuous output of timber from a national forest thoroughly organized under sound timber-management plans.

The limiting of the output to the quantity that can be sustained not only leads to stability and permanence of industries and communities but also tends to prevent the overproduction of lumber and other products. The lumber industry has tended to be concentrated in regions or localities, each of which is stripped of its usable timber in turn. To an increasing extent the example of continuous yield from the national forests is inducing lumbermen to study their own holdings to see if they can not be managed on the same basis; sometimes in connection with adjacent national-forest areas. Thus the national forests are fulfilling their objects both as timber-producing units and as demonstration areas for the production of timber in private ownership.

Though the national forests now supply less than 3 per cent of the lumber consumed annually in the United States, their influence on the handling of forests generally, the stability which they give to the present situation, and the provision which they make for the future, are of immense importance to everyone who uses wood; and that means all of us—men, women, and children—who live in this country.

FOREST RANGES VITAL FACTOR

The national forests have a great stabilizing influence also on the range-livestock industry, which obtains from the ranges 70 per cent of all the feed consumed by livestock in the 11 far Western States. Over 80,000,000 acres of land in the national forests now furnish forage to permitted livestock. Last year 27,000 permittees, owning over 4,500,000 acres of improved ranch land and 20,000,000 acres of grazing land, grazed 6,394,844 sheep and goats and 1,459,823 cattle, horses, and swine on national-forest forage.

I should say at this point that the forest management is making leases now or at least giving preference to men who own some land privately on which they can raise or feed stock during other periods of the season than those in which they use the national range or national forests.

This resource is vital to the prosperity of many dependent communities which must have available a permanent and plentiful supply of forage for the season of the year when the local livestock can not be maintained on the ranches.

Increased productiveness of the range benefits the community. On the other hand, if overgrazed ranges necessitate reductions

in numbers or in the period of use, the dependent ranch properties have their earning power curtailed proportionately. The Forest Service system of management aims to meet the best needs of the range itself, of the related timber, game, water, recreation, and other resources, and of the dependent ranch property. Experience and investigations have shown clearly how the forage plants can be used without loss of range productiveness and often with its increase. They have shown, too, that observing the needs of the range itself minimizes if it does not entirely eliminate damage to other resources. In other words, it is now generally recognized that good range management is good forest, game, and watershed management.

The system of grazing on the national forests is directed by grazing experts, men who combine practical knowledge of the range livestock industry with scientific training. The condition of each range is closely watched and reported annually. The kind of forage, its palatability, and the effect that grazing has upon it are considered. More than 5,000 species of range plants on the forests have been identified. The livestock have their preferences in regard to these and their choice changes as the advancing season alters the menu, as early plants mature and later ones spring up. The grazing animals may crop the seeds for their concentrated food value or the tender foliage of an early stage of growth. Their hoofs cut, trample, pack. Always there is an effect on the forage crop. Plans are made, in co-operation with the users of each allotment of range, covering the essentials of good range practice—that is, the right class and number of stock for the right season of the year, properly distributed so as to prevent overgrazing of portions of the allotment and to get even utilization of the forage crop on the whole. From year to year decision is made on the basis of the careful annual inspection of the range as to whether changes can be made to better the plan of management.

It is generally recognized that range productiveness should be measured in terms of quality and quantity of meat and wool, not quality and quantity of forage merely. The production of meat and wool depends upon many factors over which the Forest Service has no control, but in which it is extremely interested. The Forest Service, therefore, encourages, through its contact with individuals and livestock associations, the adoption of better practices in all lines of livestock production. Class, breed, and care of livestock when not on forest ranges are of sufficient importance to merit the careful consideration of all progressive stockmen. "More feed, more care, and better livestock" is still a slogan which might be followed with profit to the industry. The increased interest and response of permittees in the development and application of better practices is notable. It is because of this that the Forest Service has been able to complete plans on 4,415 out of a total of 7,064 range allotments.

Range regulation governed by economically sound principles and based on the authority of the Government as owner of the land to prescribe how it shall be used, together with the development by the Government of the technical knowledge essential for a right handling of the range resources, has made it possible to promote conditions of community welfare that, in the absence of regulation, could have been attained only through a long and painful struggle for economic adjustment. And during that struggle both the productivity of the resource and the personal fortunes of almost numberless individuals and families would have suffered greatly. But for the system of grazing control applied on the national forests many a western livestock producer would long ago have had to go out of business for lack of forage.

WATERSHEDS SERVE MILLIONS

The protection of national-forest watersheds has proved equally vital to the irrigation farmer and to the towns, cities, hydroelectric developments, and to all interests dependent on a steady supply of water from the mountain watersheds. Municipalities to the number of 782 with a population of 3,750,000 depend for their water on watersheds wholly or partly in the national forests. For water power 529 permits and licenses issued by the Department of Agriculture and the Federal Power Commission were in force at the close of the last fiscal year. More than 50,000 independent irrigation enterprises embracing 165,000 farms, with an aggregate irrigated area of 15,800,000 acres, are served by national-forest watersheds. The crops from these farms amounted at the time of the last census to more than \$600,000,000. A map of the irrigated lands of the West would show practically all of them adjacent to or intermingled with national-forest lands. Irrigated land in the valleys of the West means almost inevitably national forests on the adjacent mountains. The irrigation water from the mountains in the national

forests may make the difference between almost valueless land and land worth from \$100 to \$1,000 an acre when developed.

Though timber, forage, and water are the principal resources there are many others, like recreational areas, game and fish, and lands, suitable for a multitude of special uses under permit. Of these the recreational resource is the most important.

THE NATION'S PLAYGROUND

Americans turn naturally to the mountains and the woods for their outdoor recreation. In the national forests they find both, for the forests are located mostly along the mountain ranges. They find also a measure of freedom of action that is agreeable to American taste, for it is limited only by the requirements for protecting the resources of the forests, the beauty of the scenery, and the health of the visitors themselves. Furthermore, the Forest Service, recognizing that recreational opportunities are a resource like timber, forage, and water, uses its best efforts to see that recreational use makes the greatest returns in national welfare consistent with the chief purposes for which the forests were established. More than 1,500 camp grounds, on 919 of which improvements have been made, are now being heavily used by the public. The fact that nearly \$45,000 in cash, material or labor, or about a fifth of the total outlay, has been contributed by municipalities, associations, and other cooperators toward camp grounds and other recreational improvements is some indication of the interest which neighboring communities and others take in the recreational use of the forests.

The national forests embrace parts of every mountain system and almost every forest region in the United States; they form the natural outlet of large populations, to which they are logical, near by, economically enjoyed fields for outdoor sport and recreation. To millions of people they are the natural and sometimes the only available playgrounds other than city parks. And in these days of motors and good roads even the inhabitants of regions remote from the national forests have a direct personal interest in them as recreation grounds where they can feel free to camp or enjoy themselves in their own way, so long as they obey the rules of good sportsmanship and good citizenship in the woods.

The national forests have thus become a constructive influence in providing resources and protection to several of the major industries of the Nation, in promoting community stability and welfare, and in fostering the health and happiness of the people. They are a paying investment, returning large dividends in economic and social welfare, and at the same time putting into the United States Treasury each year \$5,000,000 toward the cost of their own maintenance.

FIRE MENACE

The protection of these great properties from fires and other destructive influences is an immense task requiring a large provision of equipment, supplies, and works of control, a trained and public-spirited personnel, and the means of mobilizing large emergency forces and enlisting the cooperation of whole communities. The task becomes larger and larger each year as more people go into the woods carrying with them the menace of the lighted match, the burning cigar or cigarette, and the camp fire.

It is in the West that the worst fires occur. There, to add to the man-made fires, electric storms with little or no rain are common and one such storm may start from a dozen to 30 fires within an hour or two. In the West also, particularly in the Pacific Coast States and in northern Idaho and western Montana, the forests normally face a dry season each year, the summer drought being frequently severe and prolonged. Other circumstances combine with them to make fire protection difficult. The timber stand is of conifers; the country is very mountainous and broken, often little settled and lacking in means of communication and transportation; the areas to be protected are immense; and the funds available for the work of protection are inadequate.

To combat the fire danger the Forest Service personnel puts in long hours of work and planning to strengthen the mechanism of fire protection and to find ways and means of making every dollar of appropriation cover as much as possible of the enormous task. Insufficient improvements is one of the greatest problems encountered in this work. A recently completed survey of fire-control requirements showed 12,000 miles of telephone, including replacements, to be urgently needed. There are also needed 205 new lookout towers and 73 replacements, as well as many other improvements to house and make effective the fire-control forces and their equipment.

The protective forces of the Government are without the means of making the attack on forest fires by assault and are compelled to use siege methods. Season by season telephone lines, lookout stations, roads, and trails, and similar permanent works are carried farther into the mountains as the funds are available and the foe is pressed gradually back, the men employed on these works being used in the meantime as fire fighters when occasion demands. In the score of years that the national forests have been in existence great advances have been made by the siege method and by continued effort to perfect organization and technique. There is a deal of ground still to be gained, however, and the victory depends not only on Forest Service efforts but on the support and backing which that effort receives from Congress, from the communities immediately interested, and from the general public.

RESEARCH OPENS NEW FIELDS

One of the chief methods used by the Forest Service to improve its fire-protection work is research. This method is applied not only to specific problems of forest management, weather conditions, and the effect of such factors as topography, moisture content of forest fuels, and inflammability, but also to administrative practices, organization, equipment, and so forth. It is a method used in the attack upon unsolved forest problems of many kinds. Silvicultural and other forest studies are undertaken at 11 forest experiment stations, research in range management is carried on at 3 range experiment stations, and studies of the utilization of forest products are made at the Forest Products Laboratory at Madison, Wis., and by forest products offices in the various national-forest districts. All these investigations are of assistance to forest officers in working out ways and means of handling the national forests, as well as to the industries involved and to the consumers of forest products. For instance, the Forest Products Laboratory's studies of pulp and paper manufacture and of American species suitable for paper making, of the relation of rate of growth and other factors to density and strength of wood, and of the influence of biological factors generally on the use of the product of the forest, of the use of Sitka spruce for airplane parts, and so forth, have a direct bearing on plans for cutting and for growing timber on the national forests.

The passage during the past session of Congress of the McNary-McSweeney Act authorizing a national program for forest research was a recognition of the urgent need for expansion of this activity. The most critical need now is financial resources to put the program in operation. Of all the phases of the forestry problem—and this applies to the national forests as well as to privately owned land—forest research is the most difficult and the most exacting in its requirements. It is also the most intangible, but it has often made returns of immense importance altogether out of proportion to the expenditure involved to need any defense. In forestry the field of research is large, the problems varied, and the results urgently needed for the right handling of Government, State, and private forest lands and their products.

A NEW ERA

Two important steps, in addition to the legislation for forest research, have been taken recently by Congress in planning for the solution of the forest problems of the Nation. The Clarke-McNary Act, for cooperation with the States in fire protection, distribution of tree-planting stock to farmers, forestry extension work, and an enlarged program of forest-land acquisition, has resulted in notable progress in the four years that it has been in operation. The McNary-Woodruff Act passed last April sets up a definite program of expenditure for the acquisition of land for national forests. The extension of the national forests is desirable for a number of important reasons. Self-preservation demands that the public acquire rough broken lands where the destruction of forests or failure to maintain good forest conditions means severe erosion, rapid run-off of precipitation, and irregularity of stream flow. Many areas of forest and cut-over land are suitable only for public management, Federal, State, or local, and the Federal Government has a definite responsibility to carry and manage its proportion of such forest land for timber production. More demonstration forests are needed as centers for the teaching of forest management by example. And the present national forests need to be consolidated and to be extended over the remaining public-domain land that is valuable chiefly for timber production.

The national forests in the past quarter of a century have gradually become recognized as one of the most important activities carried on by the Government for the economic and

social welfare of the people. They occupy a large place in the life of a great number of communities. They have given large returns for the comparatively modest investment we have made in them. They have arrived at a stage of development at which they are ready to increase enormously those returns for a proportionately small increase in the care and attention that we give to them and the provision we make for their management. It is the part of wisdom, economy, and statesmanship to provide more generously for their protection, enlargement, and improvement, and for the research necessary to make them and our forests generally most useful to the Nation.

Mr. SANDLIN. Mr. Chairman, I yield 10 minutes to the gentleman from Kansas [Mr. HOCH].

The CHAIRMAN. The gentleman from Kansas is recognized for 10 minutes.

Mr. HOCH. Mr. Chairman and gentlemen of the committee, I realize that it is Saturday afternoon and that it is difficult to get your attention. But if you will give me your attention for just a few moments, I believe I can present to you a matter in which you are all interested. I want to make a few observations on one of the features of the question of reapportionment.

The gentleman from Ohio [Mr. BURTON], in his splendid speech to us yesterday, said he was opposed to increasing the size of the House. I have always shared in that opinion. I would even favor a reduction in the membership of the House. What I am going to say now is not intended in any way to obstruct or to delay the reapportionment measure. I favor bringing the reapportionment measure promptly before the House for action, believing that it is our duty to reapportion.

I shall oppose, as I have hitherto opposed, the increase of the membership of the House, in spite of the fact that my State of Kansas would lose one Member under the reapportionment.

But there is one phase of the present law which I think is unjust, and it is to that feature that I wish to call your attention. The first sentence of section 2 of the fourteenth amendment reads as follows:

Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed.

To this section I have introduced a proposed amendment. My amendment simply adds these two words to that sentence: "and aliens," so that it will read, "excluding Indians not taxed and aliens."

Now, I have had furnished to me through the courtesy of the Census Bureau a reapportionment of this House under the 1920 census, preserving the same number of 435, and showing the number of Representatives that would be given to each State if we did not count the aliens in each State. By an alien I mean, of course, a foreign-born person who has not become naturalized. This table raises this question, whether it is right that aliens in this country, foreign born and unnaturalized, should be counted in determining the number of Representatives which a State should have; and I submit that in all justice they should not be counted.

Mr. FORT. Mr. Chairman, will the gentleman yield there?

Mr. HOCH. In a moment. I ask this question: If foreign-born people come to this country and do not think enough of America to become naturalized Americans, and therefore citizens, should the State in which they live be permitted to count them to increase the number of Representatives from that State?

Mr. SCHAFER. Mr. Chairman, will the gentleman yield?

Mr. HOCH. I will yield first to the gentleman from New Jersey [Mr. FORT].

Mr. FORT. The original provision that the gentleman referred to includes the words "Indians not taxed."

Mr. HOCH. Yes.

Mr. FORT. That is because at the time of the adoption of the amendment the Indians were not taxed. Should not the gentleman's proposal contemplate the fact that some Indians are now taxed?

Mr. HOCH. I do not care just now to go into that, for it is not the matter I am discussing. I am simply raising the inquiry as to whether the unnaturalized foreigner should be included.

Mr. SCHAFER. The alien must be here five years before he can be naturalized. Would you not count those who have not been here five years.

Mr. HOCH. I say there is no justice in permitting the foreign-born unnaturalized to be counted to determine the number of Representatives that a State should have.

This table shows that under the 1920 census a reapportionment on the basis of 435 Members would affect 16 States, and 32 States of the Union would not be affected. Let me read you

a list of the 16 States that would be affected under the 1920 census. I read:

Arkansas, instead of retaining its present number of Congressmen, would gain one.

California, instead of gaining three, would gain two.

Connecticut, instead of gaining one, would remain the same.

Georgia, instead of remaining the same, would gain one.

Indiana, instead of losing one, would remain the same.

Kansas, instead of losing one, would remain the same.

Kentucky, instead of losing one, would remain the same.

Louisiana, instead of losing one, would remain the same.

Mississippi, instead of losing one, would remain the same.

Massachusetts, instead of remaining the same, would lose two.

Missouri, instead of losing two, would lose one.

Nebraska, instead of losing one, would remain the same.

New Jersey, instead of gaining one, would remain the same.

Oklahoma, instead of remaining the same, would gain one.

Pennsylvania, instead of remaining the same, would lose one.

New York, instead of remaining the same, would lose four.

Mr. LA GUARDIA. Is that the purpose of the gentleman's amendment?

Mr. HOCH. The gentleman from New York asks what is my purpose? My purpose is to apply the same rule to all the States.

On every vote I have voted against increasing the membership of this House, but it makes quite a strain upon human nature for any Member to go to his State and say that he votes to take one Member away from his State when if your aliens, Mr. LA GUARDIA, in New York, were not counted, his State would not lose one and your State would lose four.

Mr. LA GUARDIA. So, as I say, that is the purpose of the gentleman's amendment.

Mr. HOCH. Let me call this to the attention of the gentleman from New York: The amendment which I have offered is no new proposition. I have before me the constitution of the State of New York and I shall read the provision which has to do with the apportionment of members of their State legislature, their State assembly. I read:

The members of the assembly shall be chosen by single districts and shall be apportioned by the legislature at the first regular session after the return of every enumeration among the several counties of the State, as nearly as may be according to the number of their respective inhabitants, excluding aliens.

[Applause.]

The constitution of the State of New York does precisely the same thing that I propose for the United States.

Mr. LA GUARDIA. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. LA GUARDIA. Would the gentleman also exclude persons who are disfranchised?

Mr. HOCH. I am now only seeking to exclude this one class. But if the gentleman wants to exclude some other people that he has in New York I might join him in that effort.

Mr. LA GUARDIA. I am talking about other States.

Mr. HOCH. Let me call your attention to the fact that North Carolina, in its constitution, has precisely the same language that I propose in this amendment, excluding aliens and Indians not taxed. California excludes persons not eligible to citizenship. Understand, that when I say "exclude," I mean simply that they exclude them from the count determining the apportionment of members of their State legislatures.

Mr. ABERNETHY. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. ABERNETHY. Why pick on New York in view of what happened there during the last election?

Mr. HOCH. Well, I think the question is a very proper question which calls for sympathy. But if these official figures pick on New York I am not responsible for that. There are other States. Tennessee apportions the members of its State legislature according to qualified voters. It goes much further than the proposal here; it not only excludes aliens but it limits the count entirely to qualified voters.

Mr. LEAVITT. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. LEAVITT. Does the gentleman think there is any longer any reason for excluding Indians because they do not pay taxes, since they have all become citizens of the United States?

Mr. HOCH. The gentleman is familiar with the situation with reference to the Indians and I do not want to be diverted in discussing them. If the gentleman thinks they ought not to be excluded let him introduce a resolution.

Mr. LEAVITT. But in the amendment the gentleman is continuing the discrimination against Indians because they are not taxed. Would not the gentleman be willing to put the Indians, who are now in the same situation as to citizenship, on a parity with the whites?

Mr. HOCH. I had thought, with all due deference to the gentleman, that I might confine this to the one question I have raised. If the gentleman, who is interested in the affairs of the Indians, thinks the Constitution ought to be changed as to their status, certainly he is in a position to give the matter attention, but I am confining myself to the question I have raised.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. SANDLIN. Mr. Chairman, I yield the gentleman three additional minutes.

Mr. HOCH. I will ask the House this question, since the gentleman has talked about the Indians: Is there any reason that can be given as to why we should exclude Indians in determining apportionment which does not apply with more force to the aliens in this country?

Mr. SMITH. Indians are not citizens; they are simply given the voting privilege by an act of Congress.

Mr. SCHAFER. Will the gentleman yield?

Mr. HOCH. I can not yield further, because my time is limited. However, I will yield to any man who will suggest any reason why a man who comes to this country, born in a foreign country, and does not think enough of America to become an American citizen by taking out naturalization papers, should be counted in determining the apportionment of Representatives; who will give any sound reason why the States in which those men live should be permitted to count them in order to get more Members in the House of Representatives.

Mr. LAGUARDIA. This is a representative government, and the very purpose of making an apportionment according to population was to have everyone represented in the Federal Congress. That was the fundamental purpose of the provision in the Constitution.

Mr. HOCH. If such people come here and do not become citizens and yet want some representation, let them hire good lawyers to represent them.

Mr. LAGUARDIA. They do want to become citizens; but when you have the Ku-Klux Klan administering the naturalization department, they never can become citizens. That is your answer.

Mr. SCHAFER. And many of them have not been here long enough.

Mr. HOCH. The gentleman takes the position that the 1,600,000 aliens in his State are not citizens for the reason that somebody kept them from becoming citizens?

Mr. LAGUARDIA. A good many of them; yes. I take that stand.

Mr. BARBOUR. Will the gentleman yield?

Mr. HOCH. Yes.

Mr. BARBOUR. Do I understand that the gentleman proposes to postpone all apportionment until the Constitution has been amended as he suggests?

Mr. HOCH. If the gentleman had been here at the beginning of my statement he would have heard me say that I am not seeking to delay reapportionment in any way; that I had always voted for reapportionment, and I voted with the gentleman against increasing the size of the House.

Mr. BARBOUR. I remember that.

Mr. HOCH. Yes; and I will call attention to the fact, since the gentleman from California has spoken, that if we cut out the aliens in the State of California, California instead of gaining three Members here would only gain two, and I think it ought to be satisfied with gaining two more Members.

Mr. SCHAFER. Would not a good reason against the gentleman's proposition be that you would have taxation without representation?

Mr. HOCH. Then I presume that in the State of New York and in the other States I have referred to, they have a terrible situation where the members of their State legislatures are apportioned on a basis which means taxation without representation. [Applause.]

Mr. SCHAFER. The record apparently so indicates.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. HOCH. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD by inserting the table to which I have referred.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The table follows:

Table showing a reapportionment of 435 Representatives in Congress on the basis of the total population as compared with a reapportionment based on the population exclusive of the foreign born who have not become naturalized. It is based on the census of 1920 and the method of "major fractions" was used

State	Present membership	Reapportionment on basis of—	
		Total population	Total population excluding aliens (unnaturalized foreign born)
Total.....	435	435	435
Alabama.....	10	10	10
Arizona.....	1	1	1
Arkansas.....	7	7	8
California.....	11	14	13
Colorado.....	4	4	4
Connecticut.....	5	6	5
Delaware.....	1	1	1
Florida.....	4	4	4
Georgia.....	12	12	13
Idaho.....	2	2	2
Illinois.....	27	27	27
Indiana.....	13	12	13
Iowa.....	11	10	10
Kansas.....	8	7	8
Kentucky.....	11	10	11
Louisiana.....	8	7	8
Maine.....	4	3	3
Maryland.....	6	6	6
Massachusetts.....	16	16	14
Michigan.....	13	15	15
Minnesota.....	10	10	10
Mississippi.....	8	7	8
Missouri.....	16	14	15
Montana.....	2	2	2
Nebraska.....	6	5	6
Nevada.....	1	1	1
New Hampshire.....	2	2	2
New Jersey.....	12	13	12
New Mexico.....	1	1	1
New York.....	43	43	39
North Carolina.....	10	11	11
North Dakota.....	3	3	3
Ohio.....	22	24	24
Oklahoma.....	8	8	9
Oregon.....	3	3	3
Pennsylvania.....	36	36	35
Rhode Island.....	3	2	2
South Carolina.....	7	7	7
South Dakota.....	3	3	3
Tennessee.....	10	10	10
Texas.....	18	19	19
Utah.....	2	2	2
Vermont.....	2	1	1
Virginia.....	10	10	10
Washington.....	5	6	6
West Virginia.....	6	6	6
Wisconsin.....	11	11	11
Wyoming.....	1	1	1

Mr. SANDLIN. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. JONES].

Mr. JONES. Mr. Chairman, I rise for the purpose of asking some member of the committee the purpose of the last proviso on page 61 of this bill, where it says:

Provided further, That no part of the funds herein appropriated shall be available for the preparation of mid-monthly reports of cotton estimates for the months of July, August, and November.

Mr. DICKINSON of Iowa. That is the same provision that was put in last year in the matter of giving cotton estimates, and I presume it is to prevent the Government from publishing the estimated crop reports.

Mr. JONES. I will state to the gentleman that a year or more ago we enacted a law which forbids mid-monthly estimates and leaving simply the one monthly estimate in the early part of the month. The existing law abolishes all mid-monthly reports on estimates.

Mr. DICKINSON of Iowa. These are crop estimates and are not price forecasts.

Mr. JONES. I understand that. The law to which I refer has nothing to do with price forecasts, but abolishes all mid-monthly estimates. It so happens that I am the author of the existing law on this subject, and naturally, therefore, recall the incident.

Mr. DICKINSON of Iowa. Will the gentleman give us a reference to the statute?

Mr. JONES. It was passed by the House a year or more ago and we had quite a discussion about it. I can give the gentleman the reference to it. The bill was passed and was approved, abolishing the first-of-the-month estimate and all mid-monthly estimates and reducing the number of estimates from 11 to 5. I would not care about this being in here except that the proviso forbids the mid-monthly reports of cotton estimates for the months of July, August, and November, which might inferentially authorize them to give the mid-monthly estimates in other months.

Mr. DICKINSON of Iowa. On page 3 the gentleman will find the limitation which the gentleman has in mind, as follows:

Provided further, That no part of the funds appropriated by this act shall be used for the payment of any officer or employee of the Department of Agriculture who, as such officer or employee, or on behalf of the department or any division, commission, or bureau thereof, issues, or causes to be issued, any prediction, oral or written, or forecast with respect to future prices of cotton or the trend of the same.

Mr. JONES. No; I have no reference whatever to that proviso. I think that is a fine provision, and I secured its adoption or a very similar one during the last session, as the gentleman remembers, and I am very glad to see the gentleman is again including it in the bill, and I compliment him and the committee for doing so. This other provision refers not to the prices of the crops but to the forecasts of production. We had quite a discussion here as to the effect on the market of having these predictions every two weeks, and I supposed the gentleman was familiar with that act. I will say for the gentleman's information that I will secure a copy of the act and present it to him.

Mr. DICKINSON of Iowa. There was no intention of including anything in the bill that would nullify anything that has been passed heretofore.

Mr. JONES. I am sure of that; and what I fear is that this might be construed as legislative authorization, as a rider on an appropriation bill, authorizing the going back into getting out mid-monthly reports during the months not named as being excluded.

Mr. DICKINSON of Iowa. There was no such intention.

Mr. JONES. The gentleman, of course, is familiar with the rule of law that by excluding some you include the others?

Mr. DICKINSON of Iowa. There was no such intention on the part of the committee, and I will be glad to look up the statute, and if it is necessary to make this plainer, I shall be pleased to do it.

Mr. JONES. I thank the gentleman.

I want to state while I am on my feet, that I was very much interested in the discussion of the gentleman from South Carolina [Mr. HARE], on the question of marketing.

I notice in looking through the bill that exclusive of the provision for roads, there are some sixty-odd million dollars appropriated. Of that sixty-odd million dollars, some \$6,000,000 are appropriated for the problems of marketing and distribution and nearly \$60,000,000 are appropriated for other uses dealing mostly with the questions of production. In other words, more than 80 per cent of the work being done by the Department of Agriculture is being done on the program of production and less than 20 per cent of the funds in connection with the work being done by that department are apparently used in connection with the problems of marketing and distribution.

I want to make this suggestion in connection with the work, not so much to the committee, although somewhat to them, but more to the department—we have in this country mastered the machinery of production to a far greater degree than we have the machinery of marketing and distribution. The problems we have in this country, as is noticeable in the discussion of the farm question, do not pertain so much to the problem of production as they do to how to dispose of the crops to the best advantage. I would like to see a reverse English put on that. I would like to see the Secretary of Agriculture who is in charge of this department, recommend a program by which he would devote 75 or 80 per cent of his efforts, and 75 per cent of all the money appropriated for his department, to a solution of the real problems of the farm. I think that would be much better than to have the greater portion of his efforts and appropriation devoted to the problems much less acute.

Mr. BLANTON. Will the gentleman yield?

Mr. JONES. I will.

Mr. BLANTON. I agree with the position the gentleman takes. I commend him for the fight he has been making several years for better marketing facilities. Is it not true that the farmers will take care of the production if the Government will assist them in securing better distribution and marketing?

Mr. JONES. I think that is largely true. I think it is a question for serious thought on the part of those in charge of the work being done by this department. We have had discussion and agitation over the country of farm relief, and the whole problem has been girdled about with propositions of distributing and marketing these products; yet this department that was created primarily for the interest of agriculture is devoting more than 80 per cent of the funds put in its hands on a line of work that does not touch the condition of the marketing system. I think that is a matter that should be given serious thought, and I think there should be a readjustment all along the line.

I am not criticizing; I am simply commenting. Some wonderful work has been done by the department, notably in finding new outlets and uses for cotton and in other matters pertaining to marketing. I would like to see this branch of the work enlarged. That is the purpose for which I rose.

I do not quarrel with the work that has been done. But I do think it would be wise to devote a larger portion of whatever money is appropriated to the marketing side of the farmers' problems.

For many years the farmers have marketed their products largely on the terms of those who handle the commodities after they leave the farm. In that field a great work lies, and I would like to see this phase of the department's work receive a larger share of their attention. [Applause.]

Mr. DICKINSON of Iowa. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. COLE].

Mr. COLE of Iowa. Mr. Chairman and Members, while the agricultural appropriation bill is under consideration I want to occupy a few moments of the time of the House to present a new kind of hero. From time to time we exhibit here, in words and also in the flesh, various kinds of heroes. A few days ago there was presented to us from the Speaker's gallery a lady from England, Lady Heath, who has an altitude flying record. We can recall how we welcomed Col. Charles A. Lindbergh.

But my hero is different, and in my opinion also important. He is a 12-year-old boy named Clarence Goecke, of State Center, Iowa. He appeared on the scene of what has become national fame in the International Livestock Show and Exposition in Chicago last month. His picture has appeared in all the papers of the country, together with his sister, Emma, who helped him exhibit his product.

That product was a sample of "baby beef" on the hoof, affectionately named "Dick." This "Dick" was to Clarence Goecke what his "We" was to Colonel Lindbergh. In July, 1927, the father of this boy, a noted breeder of fine stock, presented him with a Hereford calf. The boy accepted it and fed it with all the care that a boy can bestow on a pet animal. He followed scientific methods of feeding, with the result that in November, 1928, he exhibited the calf, with a weight of 1,160 pounds, for championship honors. The animal won all the honors. It was the first time in the history of International Livestock Show that a club calf was made grand champion of the open fat steer show. The modest and blushing boy was overwhelmed with honors. In addition to winning more than a thousand dollars in prizes, he received a check for \$8,049.10 when the animal was sold at auction to Mr. J. C. Penney at \$7 a pound—dollars instead of cents per pound. Of these sums he gave \$2,000 to his sister and the balance of it he has placed in a bank—may he later invest it in a farm.

Clarence Goecke and his sister, Emma Goecke—for she is closely identified with his victory—are members of farm clubs, known as 4-H Clubs. It is to these organizations for the boys and girls of the farms that I want to call especial attention in this connection. These boys and girls are studying farm processes and problems in their youth. They are learning all they can about what will be the scientific farming of the future.

I am told that there are now 640,000 boys and girls in such club memberships and activities. They are scattered through all the agricultural States. I do not know of any organizations in the land that are more worthy of praise, even here on the floor of the House of Representatives. They are preparing themselves for intelligent industry in an age that pessimists think is largely devoted to frivolities and inanities. These boys and girls are part of the answer to those who despair of the future. They not only hold meetings, but they practice what they learn. It is applied education.

These 640,000 boys and girls—and may their tribes increase—are important when we have in mind the fact that every 16 years we have a new population on the farms. That is to say, the average time of those on the farms is only 16 years. Many, of course, remain on their farms much longer, but many more do not tarry even that long. With 640,000 youths in training

we can visualize a new kind of agriculture, an agriculture of science and of business methods. Instead of returning to peasantry, as some pessimists have tried to make out, I think we are more apt to turn to a superagricultural population. We have "master farmers" now, but we will have many more in the future. On the farms, as well as elsewhere, it is going to be a survival of the fittest.

The boy whom I am presenting as one of our new heroes is only one of many who are doing such things. Clarence Goecke has simply succeeded a little better than others. He has succeeded so well in his efforts that he has achieved the highest honors.

Fortunately we are encouraging such efforts by giving them recognition. The boy from the district which I represent was the guest of honor, together with his sister, at a public dinner given in Marshalltown, Iowa, under the united auspices of the chamber of commerce of that city and of the farm bureau of Marshall County. No public dinner was ever given more worthily.

I think we need not despair of the future. [Applause.]

Under leave to extend these remarks in the RECORD, I am going to reprint here what the Iowa Homestead, published at Des Moines, one of the greatest of all farm journals, said in its issues of December 13, of this boy hero and his achievement, as follows:

The most important event at the big stock show in Chicago last week, which is already known all over the United States, was the placing of the purple on the yearling purebred Hereford club steer, Dick, fed by Clarence Goecke, State Center, Iowa, a boy only 12 years old. While Clarence had shown the steer himself at other fairs he decided to let his more experienced 18-year-old sister, Emma, show him at the International and to her belongs the credit of doing as fine a job as any expert showman.

It should be mentioned here that the judge who made the Goecke steer grand champion of the show was none other than Walter Biggar, of Dalbeattie, Scotland, who judged the fat steer classes at the International for the fourth time this year. Mr. Biggar is considered to be one of the best fat cattle judges in the world. And in this connection let it also be mentioned that this year's show of individual fat steers—purebreds, grades, and crossbreds—was the strongest ever seen at Chicago. In fact Judge Biggar stated that Dick was one of the greatest steers he had ever seen anywhere.

The one thing coveted most by breeders and feeders all over the United States and Canada is to win grand champion steer honors at Chicago. Expert feeders by the score all over the international field try their skill year after year in an endeavor to win this prize and this year a club boy challenged the most skillful feeders in the two countries and won.

What did winning this prize mean? Did it mean merely success and honor to Clarence and his sister, Emma? Not at all. It meant much more. It gave dignity and standing to 4-H club work in general and to the livestock feeding projects in particular. The millions of boys who will hear about it all over this great country of ours will become ambitious and desirous of seeing what they can do in the way of feeding calves. Millions of fathers who up until now may have been in doubt as to the practical value of feeding projects for club boys will change their minds and become ambitious to give their boys an opportunity to lead a grand champion into the show ring at the county, State, or a still greater show.

We congratulate Clarence and his sister Emma. It was a wonderful achievement to win this great prize. Let them realize, however, that with great success comes great responsibility. Let them remember the fine club motto, "Win without bragging and lose without squealing." The management of the International may well feel proud over this grand championship winning. It is additional proof to them that they did a wise thing when they encouraged the boys and girls of the country to bring their club calves to the exposition and permitted them to show in the open classes and compete for the highest honors. May the results of this year's grand champion steer award bring about a great increase in club work all over the country. May it double the present membership in the next two years.

Mr. BUCHANAN. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky [Mr. GILBERT].

Mr. GILBERT. Mr. Chairman, yesterday the House was debating an appropriation for St. Elizabeths Insane Asylum. The leader of the House had just complimented the Committee on Appropriations for its splendid service, and the several members of the Appropriations Committee in turn complimented one another. I think that in the main was justified; but there is one subject about which those in power do not seem to want any information, and that is St. Elizabeths Hospital. I did not care again to bring this matter to the attention of the House. When the bill was under consideration under general debate I asked for no time, but after the gentleman from Idaho [Mr.

FRENCH] had made such an unjust vindication of this institution I asked him certain questions.

I call the attention of the committee now to how little he knew by his own confession about that hospital. I asked him how many employees they had, and he correctly gave the number at more than a thousand and the number of patients at more than 4,000, admitting that one person was employed to every four patients. I have here two telegrams from institutions of the same kind, hospitals for the insane, where they conduct farms and are doing the same work that they do at St. Elizabeths. One is from the Eastern Kentucky Hospital for the Insane, at Lexington, Ky.:

We have 1,599 patients and 170 employees.

That is 1 to 9. The other is from the Central Kentucky Asylum for the Insane, at Lakeland, Ky.:

We have 1,823 inmates and 205 employees.

Again, 1 to 9. That is the proportion of employees to patients over the United States, with some few having as many employees as 1 to 7. Here they have 1 to 4. But the gentleman from Idaho [Mr. FRENCH], after giving that information to the House, strengthened his position very much by saying that the per capita expense at the institution was \$300 per year. That is very small. I concede that for a moment I was disarmed, but that information is not correct. Under the leave to revise his remarks, the gentleman from Idaho, after telling the House that the per capita expense was \$300 per patient, changed his remarks to read \$2 per day.

Mr. FRENCH. Mr. Chairman, will the gentleman yield?

Mr. GILBERT. Yes.

Mr. FRENCH. My first remarks had reference to the Government appropriation. I find, however, that including the moneys that are received by the institution, moneys not appropriated by the Government, it brings the figure up to that which I placed in my corrected remarks—less than \$2 per day. The figures that I inserted in the RECORD are the correct figures. The figures I used last night would be the correct figures as applied to Government appropriations, but I felt that the House would prefer to have the latter figures, which give a proper picture of the situation.

Mr. GILBERT. I am not criticizing the gentleman for changing the figures. Under the leave to revise and extend his remarks he did the proper thing, but it shows instead of it being \$300 a year it is \$2 a day, \$730 a year for each patient there, several hundred dollars greater than the average over the United States. For some reason I do not know why the Committee on Appropriations can not or will not get the facts in reference to this institution. I repeat, and am prepared to vindicate my assertion, that the hospital in its management is the most extravagant, the most inefficient, and the most outrageously conducted hospital for the poor unfortunate insane in the United States, and to continue to keep Doctor White in charge after sworn testimony has been produced of changing records, of extravagant abuses, mistreatment, including the death of one man under correction, is a blot upon the administration and another illustration of where Government institutions are conducted more for the interest of those in charge than in the interest of the inmates for whose benefit they are supposed to be conducted.

Mr. WILLIAMSON. If the gentleman will yield, I may say that the Committee on Expenditures has already ordered an investigation of St. Elizabeths Hospital, starting next week.

Mr. GILBERT. Mr. Chairman, I would not have made these remarks had it not been for the very enthusiastic defense made by the gentleman from Idaho, who more than doubled his own figures yesterday after giving the House information. That committee, frankly, does not know the facts about this institution. That is a strong statement to make, but I stand prepared to verify any statement I have made. I am sick and tired of having to take this floor upon this matter every session. I have said all I ever intend to say about it, but they are the facts. I feel justified in repeating them. [Applause.]

Mr. BUCHANAN. Mr. Chairman, I yield the balance of my time to my good Republican colleague [Mr. KNUTSON].

Mr. KNUTSON. Mr. Chairman, for several years the lawyers of the country, and more particularly the lawyers of the House, have been working on our agricultural problems in an endeavor to find a solution for them, but they have not progressed very far. Now the newspaper men of Minnesota come forward with a plan that embraces a number of measures. I desire to call this plan to the attention of the House. The sponsors of this plan are all men of standing, and if there is no objection I am going to ask to have the so-called Minnesota plan made a part of my remarks in the RECORD. I yield back the balance of my time.

The article referred to is as follows:

SUGGESTIONS FOR CONCRETE EFFORTS BY CONGRESS IN BEHALF OF FARM RELIEF—THE MINNESOTA PLAN

Believing that much can be gained by developing concrete, workable, and just proposals out of the general sentiment for national policies more favorable to agriculture, and believing that now is the time for such concentration of thought, rather than for mere assertion and protest or political maneuvering, we, the undersigned, suggest attention to the following program, and we hope for such general approval that it may be held up to the country as the Minnesota plan. We do not assume to include all that might be practical, and we welcome suggestions for amendment.

1. Development of Mississippi and St. Lawrence waterways within limits that can be approved by disinterested engineers and business men. Delegation of power to the Interstate Commerce Commission to permit northwest railroads to compete with the Panama Canal for western traffic.

2. Retention of the flexible feature of the Fordney-McCumber Tariff Act—a vital need to prevent maladjustment between acts of Congress and rapidly changing world conditions.

3. Amendment of the tariff laws to provide for the following:

(a) Revival of the potato-starch industry in Minnesota and in other potato-growing States. A higher tariff on flax and on any other farm products that can be produced in our country and which have foreign competition in the home market.

(b) Such tariffs on vegetable oils as will make corn oil and other vegetable oil production here pay, and such as will end the advantages these foreign vegetable oils have as substitutes for animal and dairy fats.

(c) A better dairy schedule designed to put other dairy products on a basis equivalent to that of butter and to protect milk and its by-products, such as cream and milk powders and casein, against foreign competition.

(d) There should be no competing meat and poultry imports, and the various animal by-products should be so protected that their prices will help to sustain the farm prices for the whole animal. In this connection we suggest consideration of a bonus on exports of animal products, to the end that the livestock industry be stimulated, thereby becoming a factor in consuming a surplus of grain and in the process keeping fertility on American farms instead of shipping it abroad as would be the case if grain exports are stimulated instead of livestock products. We suggest, however, that in case of grain surplus emergency, provision for an export grain bonus be considered, but with suitable penalties for continued overproduction.

(e) All cereals should bear such high rates of protection that threat of imports can not interfere with prices set by domestic demand and supply.

(f) There should be a sugar policy, perhaps one of gradual increase in protection over a series of years, with the end in view that the continental United States shall be practically self-sufficient in sugar. Public security as well as farm welfare demands such a policy.

(g) Executive actions on tariff rates should be made acts of Congress, so that in the future the Executive may be free to render further aid under the flexible clause.

(h) Farm-product protection should be accompanied by such compensating duties for products manufactured therefrom that no such industry shall suffer in the home market.

4. Provision for two lines of research to be projected at once under congressional authority: The one to discover means of replacing imported farm products with native products so far as possible; the other to survey the possibilities of drawing increased raw materials for our industries from American farms.

5. Consideration of the problems arising from the fact that the Philippines, Hawaii, Porto Rico, and supervised countries such as Haiti, San Domingo, and Nicaragua are and will continue to be agricultural countries, tending to compete unfairly with our continental farming. Development of our inland empire we suggest to be the wiser policy.

6. Consideration of immediate steps to shift Government activity from reclamation of land to reforestation and grazing.

7. Provision for continued efforts to reduce costs of farm production so that prices to consumers can be held down while at the same time careful farmers get fair returns, and also that our export farm markets may be held so far as possible. Along this line there should be increased support of farm schools and colleges, county extension agents' boys' and girls' club work, and all those other agencies calculated to improve business management of the farms.

8. Creation of a Federal farm board with wide powers to assist and advise, but without power to determine prices or to make sumptuary rules. Such board to be established at once.

9. Consideration in all such legislation that general credit policies be framed with relation to the length of turnovers in farm production and the need of steady or slightly ascending price levels.

10. Provision for continued support and aid in the development of cooperative marketing as a means of increasing the net returns to

farmer producers and at the same time reducing the cost of food to the consumers.

11. Recognition of the growing need of large supplies of cheap fertilizer if American farms are to produce at low costs and acceptance of the idea that aid in securing such supply is to be a part of our national farm policy.

Rudolph Lee, editor Long Prairie Leader; L. Benshoff, editor Detroit Lakes Record; W. E. Dahlquist, editor Thief River Falls Times; H. C. Hotelling, editor Mapleton Enterprise; C. H. Bronson, editor Osakis Review; Herman Roe, editor Northfield News; L. A. Rossman, editor Grand Rapids Herald-Review; Ed. M. La Fond, editor Little Falls Transcript; B. E. Marsh, editor Redwood Falls Gazette; J. D. Harandon, editor Park Rapids Enterprise; H. Z. Mitchell, editor Bemidji Sentinel; Grace A. Dunn, editor Princeton Union; E. R. Umpleby, editor Greenbush Tribune; Grove Wills, editor Eveleth Clarion; P. W. Kemp, editor Argyle Banner; Jay L. Putnam, editor Granite Falls Tribune; Iver J. Iverson, editor Hutchinson Press; J. C. Morrison, editor Morris Tribune; B. K. Savre, editor Glenwood Herald; Asa M. Wallace, editor Sauk Center Herald; C. W. Carlson, editor Melrose Beacon; S. M. Reector, editor Deer Creek Mirror; George E. Erickson, editor Brainerd Tribune; L. A. Bradford, editor Verndale Sun; Roe Chase, editor Anoka Herald; D. E. Ward, editor Hubbard County Journal; Paul Kinney, editor Alexandria Citizen-News; Ed. Vandersluis, editor Sauk Rapids Sentinel; E. O. Qualey, editor Menahga Messenger; A. H. Langum, editor Preston Times; A. M. Welles, editor Worthington Globe; C. A. French, editor Monticello Times; John P. Mattson, editor Warren Sheaf; Alice Ione Huntley, editor Frazee Press; Carlson Brothers, editors Cambridge North Star; C. M. Colby, editor Sandstone Courier; T. R. Burges, editor Dawson Sentinel; E. K. Whiting, editor Owatonna Journal-Chronicle; C. L. Stevens, editor Warren Register; C. R. C. Baker, editor Willmar Republican-Gazette; H. E. Wolf, editor Deer River News; Palmer Gilbertson, editor Lake Crystal Tribune; Alvah Eastman, editor St. Cloud Journal-Press; Liesch & Walter, Brown Co. Journal, New Ulm; Harold Knutson, editor Wadena Pioneer-Journal; H. P. Phillips, editor Mahanomen Pioneer; A. O. Moreaux, editor Luverne Herald; C. R. Campbell, editor Ellendale Eagle; L. A. Dare, editor Elk River Star-News; Burt Bay, editor Albert Lea Tribune; A. L. Hamilton, editor Aitkin Republican; Hjalmer Bjornson, editor Minnesota Mascot; J. Harold Curtis, editor St. James Plaindealer; M. W. Trussell, editor Canby News.

Mr. DICKINSON of Iowa. Mr. Chairman, I yield two minutes to the gentleman from Idaho [Mr. FRENCH], the balance of my time.

Mr. BUCHANAN. I yield the one minute remaining of my time.

The CHAIRMAN. The gentleman is recognized for three minutes.

Mr. FRENCH. Mr. Chairman, it was not my thought to have anything further to say upon this subject until this moment, but since the gentleman from Kentucky has referred to the question I shall make a few further observations. Doctor White is the head of one of the greatest institutions in the world of its kind. He is a man who was appointed by the late President Roosevelt and has served during the administrations of every President since that time, including that of President Wilson, of the gentleman's own party. Criticism has been made against him which is often made against officers holding such position as that of Doctor White. So far as the members of our committee are concerned, we are not charged with the selection of the manager or superintendent of that institution. The position is an appointive one, under the administration, and if there is anything seriously wrong with an officer such as Doctor White there are ways in which he can be reached in the orderly processes of the law.

Within this Chamber careless statements are constantly made; sometimes statements that would not be made by Members of Congress on the outside or off the floor. Members here, I think, ought to have that privilege. On the other hand, it ought to be a challenge to Members of this House rather to regard the fact that they are immune on account of statements made here as a challenge to them to be very definite and accurate in statements that reflect on persons who do not have the opportunity of replying in this forum, who have no recourse against a person who makes a statement on this floor, and must simply abide the consequences of the statements that are made, no matter how derogatory they may be, no matter how far away from accuracy they may be, no matter how much they may reflect upon efficiency in public service or even character itself. On the other hand, it is the duty of the Members here to be critical. It is one of the saying features of our Government that there

is a body where wrongs can be pointed out, and even if wrongs are not wholly known but believed, at any rate the situation can be a subject matter of debate and discussion. Good comes from it. But on the other hand, as was well said upon yesterday by that most distinguished Member of this House, who was sworn in to-day as a United States Senator [Mr. BURTON], Members of this House ought to measure their words when their words involve criticism of those who can not answer back. [Applause.]

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF THE SECRETARY
SALARIES

For Secretary of Agriculture, \$15,000; Assistant Secretary and other personal services in the District of Columbia, including \$7,294 for extra labor and emergency employments, and for personal services in the field, \$712,450, in all, \$727,450, of which amount not to exceed \$699,450 may be expended for personal services in the District of Columbia: *Provided*, That in expending appropriations or portions of appropriations, contained in this act, for the payment for personal services in the District of Columbia in accordance with the classification act of 1923 as amended (U. S. C., pp. 65-71, secs. 661-673, 45 Stat., pp. 776-785), the average of the salaries of the total number of persons under any grade in any bureau, office, or other appropriation unit shall not at any time exceed the average of the compensation rates specified for the grade by such act, as amended, and in grades in which only one position is allocated the salary of such position shall not exceed the average of the compensation rates for the grade except that in unusually meritorious cases of one position in a grade advances may be made to rates higher than the average of the compensation rates of the grade, but not more often than once in any fiscal year, and then only to the next higher rate: *Provided*, That this restriction shall not apply (1) to grades 1, 2, 3, and 4 of the clerical-mechanical service, or (2) to require the reduction in salary of any person whose compensation was fixed, as of July 1, 1924, in accordance with the rules of section 6 of such act, (3) to require the reduction in salary of any person who is transferred from one position to another position in the same or different grade, in the same or different bureau, office, or other appropriation unit, or (4) to prevent the payment of a salary under any grade at a rate higher than the maximum rate of the grade when such higher rate is permitted by the classification act of 1923 as amended, and is specifically authorized by other law: *Provided further*, That the Secretary of Agriculture is authorized to contract for stenographic reporting services, and the appropriations made in this act shall be available for such purposes: *Provided further*, That the Secretary of Agriculture is authorized to expend from appropriations available for the purchase of lands not to exceed \$1 for each option to purchase any particular tract or tracts of land: *Provided further*, That no part of the funds appropriated by this act shall be used for the payment of any officer or employee of the Department of Agriculture who, as such officer or employee, or on behalf of the department or any division, commission, or bureau thereof, issues, or causes to be issued, any prediction, oral or written, or forecast with respect to future prices of cotton or the trend of same.

Mr. JONES. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. JONES. Mr. Chairman, apropos to the last proviso on page 3, I want to call the attention of the chairman to Public Law 740, in connection with what we were talking about a few moments ago. Section 5 of that act, which was approved on March 3, 1927, referring to estimates of cotton production, says:

Only five shall be issued: One August 1, another one September 1, another October 1, another November 1, and one on December 1.

The effect of that was to abolish all semimonthly reports. I think, therefore, this provision ought not to be allowed to stay in the bill. The department might infer, and with plausible grounds, that it was indirectly authorized to make the other semimonthly reports not specified in the bill. For that reason I think the proviso should be stricken out entirely, and I am sure the chairman will agree with me.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the paragraph.

The CHAIRMAN. The gentleman from New York moves to strike out the paragraph. The gentleman is recognized for five minutes.

Mr. LAGUARDIA. I ask unanimous consent to speak out of order for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LAGUARDIA. Mr. Chairman, I regret to be compelled to ask to speak out of order, but it is the only opportunity I will have to reply in part to the suggestion made by the gentle-

man from Kansas [Mr. HOCH] on his proposed constitutional amendment.

I am sure the distinguished gentleman, whom we all recognize as a great authority on interstate and foreign commerce and on certain features of the railroad law, does not claim any original authorship of this proposed plan, the plan that is known all over the country as the "Evans plan."

Now, it would appear, in reading the remarks of the gentleman from Kansas, that all aliens had a vote in the selection of Representatives. Of course, everyone knows that aliens are not permitted to vote and that the count of aliens in the enumeration is simply for the purpose of fixing the apportionment of representation to the several States.

Mr. HOCH. Mr. Chairman, will the gentleman yield there?

Mr. LAGUARDIA. Yes.

Mr. HOCH. Of course, the gentleman misunderstood me. He certainly misquotes me. I said nothing whatever about aliens being permitted to vote.

Mr. LAGUARDIA. No; I did not misunderstand the gentleman. I am simply making it clear for a certain type of people who may misunderstand the gentleman. Especially that type of citizens who is unlettered and gullible and apt to be a follower of the Evans school of thought. Hence the necessity of making the record clear.

Mr. HOCH. The gentleman undertakes to inject something here that is entirely irrelevant. The alien is entitled to the protection of American laws, but is he entitled to be counted in the selection of those who make the laws?

Mr. SCHAFER. Is the gentleman referring to Evans, the imperial supreme wizard of the Ku-Klux Klan?

Mr. LAGUARDIA. Yes. The Constitution of the United States—and I am sure the gentleman is familiar with what took place at the convention at the time this particular provision was adopted—intended that we should have direct representation, that there should be a representative form of government, and that all persons should be counted in the enumeration and in fixing the proportionate representation of the various States in the lower House of Congress. If the gentleman will take the statistics of that day and study them, he will find that the proportion of aliens then in the United States was not any greater than it is to-day. The National Government has jurisdiction in certain specified cases only, such as national defense, interstate and foreign commerce, foreign relations, and taxation, which affect directly every man and woman in the country.

Take them one at a time. In the question of national defense aliens are counted, and in the selective service act passed by Congress aliens were not exempt from being drafted into the military service.

Mr. SCHAFER. And they fought and died, too, did they not?

Mr. LAGUARDIA. Yes. In matters of interstate and foreign commerce they are as vitally affected as are all the residents of the gentleman's district. In matters of taxation they are as directly concerned as any citizen in the country. Representation while fixed by population is also established on the principle of locality. The entire make-up of the congressional district is just as important as its geographical location and the number of people who may vote therein. All of that was thoroughly considered by the framers of the Constitution.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LAGUARDIA. Mr. Chairman, I ask unanimous consent to proceed for five additional minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for five additional minutes. Is there objection?

There was no objection.

Mr. LAGUARDIA. But aside from all that, gentlemen, there is no need for any such amendment at this time, and for this reason: In 10 years from now and by the time of the next census the condition complained of by the gentleman from Kansas—this large number of aliens—will no longer exist. Following the restrictive immigration policy adopted by Congress the number admitted each year is very small and its percentage to the citizen population so indifferent and is so distributed as to be ineffective in controlling the number of Representatives in the various States. So that in a very few years the conditions will be changed entirely.

These aliens are rapidly becoming citizens; their children are native born and are growing into splendid American citizens. The suggestion thrown out by the gentleman from Kansas that if these aliens do not think enough of the United States to become citizens they should not be counted—permit me to say that 99 per cent of these aliens do think enough of this country and do want to become citizens. It is at times

difficult for an applicant to qualify. Take a man past middle age, who has worked from morning until night digging ditches, or any hard-working man toiling at manual labor, who has not the time or opportunity to get much schooling, and then have him go before a narrow-minded, bigoted, and prejudiced examiner, who will ask him such questions—and if the gentleman from Kansas can on the spur of the moment answer all of these questions that have been asked of aliens in New York City, I will vote for his amendment—such questions as: "Who was the Governor of New York during Lincoln's second administration?" "Who was the Secretary of State during Harrison's administration?" "Where is Grant's Monument?" Such questions as that. "What is a trust company?" This actually happened. An alien was given a newspaper to test his ability to read English. The item given him by this fool judge was an advertisement of the New York Trust Co.

The applicant read it, and was then asked, "What is a trust company?" Now, the gentleman is a pretty good lawyer, but I do not think he could give me a proper legal definition on the spur of the moment.

It is only fair to take all conditions into consideration. Perhaps the exclusion of aliens is only the first step in getting away from popular and constitutional government of free men. There is a tendency on in this country by a certain minority against our representative form of government. Perhaps this is only the entering wedge—first to exclude aliens from the count. And then the next step will be to exclude those who do not own property; and then the next step will be to exclude all those who do not own real property, until government will be controlled entirely by a small privileged class, as it was in England at the time of the American Revolution. Why, this question came up in the Constitutional Convention. The same line of thought that the gentleman is presenting appeared in the Constitutional Convention, but it was overwhelmingly defeated.

Mr. HOCH. Will the gentleman yield?

Mr. LA GUARDIA. Certainly.

Mr. HOCH. Does the gentleman favor a change in the provision of the State constitution of New York, which excludes aliens in apportioning the members of the Legislature of the State of New York?

Mr. LA GUARDIA. The gentleman speaks about one provision in the constitution of the State of New York that I do not approve. I am not in favor of that provision, but the gentleman does not know that it was the same kind of bigotry and the same kind of ideas that brought about that provision of the constitution of my State that is now back of the Evans plan. It was the up-State people trying to cut down the representation from New York City that brought about that provision in the constitution, and we are ashamed of it.

Mr. HOCH. The gentleman is ashamed of the provision which excludes aliens from the count in the State of New York for providing the apportionment of members of the State assembly?

Mr. LA GUARDIA. Yes, I am; and the conditions which brought it about.

Mr. HOCH. Does the gentleman think it is fair to permit the State of New York to refuse to count aliens in determining the members of its own State legislature, but insist upon counting them for the purpose of telling how many Members of Congress that State should have?

Mr. LA GUARDIA. Why, two wrongs are not going to make one right. Of course, there is nothing selfish in the gentleman's purpose at all. It is only incidental that my State would lose four Representatives and his would retain the present representation.

The CHAIRMAN. The time of the gentleman from New York has again expired.

Mr. GREEN. Mr. Chairman, I rise in opposition to the pro forma amendment. I wanted to ask my colleague from New York a question, but as he has taken his seat I will not ask it. The question I had in mind was this: The main trouble in naturalizing aliens, I believe, is in the fact that so many of them have unlawfully entered this country and then when they go before an examiner they can not qualify; therefore, they refrain from going before an examiner as often as they can and then when they do go before an examiner they find themselves unable to qualify. I do not believe our examiners are narrow-minded and warped individuals, as they have been styled. I think the examiners who represent the Department of Immigration, as a usual thing, are men of integrity and men of high type who are there to protect our institutions and our country from an influx of a horde of aliens, who, if entered, would lower the economic structure of our country and thus cause our wage earners to earn less money. These foreigners would then thrust themselves

upon our society for us to maintain and take care of. I commend our immigration officials for holding the bars up high and strictly enforcing our laws, and I would like to see the laws more rigidly enforced.

Mr. SCHAFER. Will the gentleman yield?

Mr. GREEN. Yes.

Mr. SCHAFER. Did not the gentleman's forefathers immigrate to this country, and were they not aliens?

Mr. GREEN. I am glad to acknowledge that all of our forefathers immigrated to this country. Mine did, some from Spain and England, I believe. But they came in the early stages and for noble purpose; they made our Nation and our Nation's Government, and we as their descendants are here to-day protecting it and endeavoring to prevent an influx of foreign hordes which are of a different type and who have not progressed and advanced industrially, economically, morally, and otherwise, in a large measure, as we have and as have the gentleman and his ancestors.

Mr. SCHAFER. Will the gentleman yield for a further observation?

Mr. GREEN. Yes, sir.

Mr. SCHAFER. I will say to the gentleman that many of these aliens coming through our immigration ports at the present time will be better American citizens than many members of the Ku-Klux Klan and imperial wizards who are supporting the apportionment plan which will not permit the counting of aliens.

Mr. GREEN. Of course, many immigrants make splendid citizens, but they are the ones that come in according to law. They are the ones who abide by the laws of our country when they come here and accept and defend our laws and institutions as their own. They lawfully and in due course of time become naturalized, but they are not the ones who are bootlegged across the American border or through the great ports of our country. I do not acknowledge, however, that all of them make good citizens, and the gentleman from Wisconsin well knows that many of them have as their aim in life to breed contempt for American laws and institutions.

Mr. SCHAFER. If the gentleman will permit the observation, the discussion to-day has not been about those who have come here in violation of law, but those who have come here legally.

Mr. GREEN. I think those who have come here legally and are fit for citizenship are always accorded citizenship, but I for one do not believe in letting down the bars or in permitting them to come in here and destroy our wage-earning status, get all they can out of society and then thrust themselves back upon society to be maintained, and in so many instances breed within and without their own perverted herds and hordes, disobedience to law and constituted authority. The population in our institutions, which detain criminals and those provided for the indigent and for the insane, is largely foreign and the population in them of the foreign-born I believe is increasing. Do you mean to tell me that as lawmakers we should come here and give vent to statements which accuse our immigration officials of being warped, one-sided, narrow-minded officials when they ask pertinent questions of the future citizens of America relative to the history of our Nation? We must maintain the majesty of the law and uphold the integrity of our Nation's constituted officials if American institutions are to survive.

Mr. SCHAFER. Will the gentleman yield?

Mr. GREEN. Always, to my friend from Wisconsin.

Mr. SCHAFER. If the gentleman will look into the records, he will see that many thousands of foreign-born citizens and aliens lost their lives, health, and minds in the service of our country in time of war.

Mr. GREEN. Oh, I admit that a number of those men went to war. Some of our splendid soldiers were men of foreign birth. We do not deny any of that, I would say to my friend from Wisconsin, and we do not reflect upon them. "Render unto Caesar the things which are Caesar's." I would not detract one bit from valor of soldiers and sailors of foreign birth who have done their part in time of the Nation's need; but, my friends, they were men of moral and spiritual integrity, men who would have done service and honor to any country or individual in need. We can not, however, overlook the fact that undesirable aliens are flocking to our country and here entering faster than they can be assimilated and Americanized. There are to-day in the United States probably 16,000,000 persons of foreign birth, possibly 7,000,000 of whom are not American citizens. Instead of becoming Americanized they are in some instances foreignizing our American institutions, and this should cease; our immigration doors should be slammed in the faces of these predatory hordes and thus save our beautiful America for Americans; this must be done if we are to maintain

our leadership and prowess in the affairs of nations. [Applause.]

The CHAIRMAN. The time of the gentleman from Florida has expired.

Mr. HOCH. Mr. Chairman, I move to strike out the last two words, and ask unanimous consent to speak out of order for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. HOCH. Mr. Chairman, the gentleman from New York [Mr. LA GUARDIA] and the gentleman from Wisconsin [Mr. SCHAFER] have sought to create the impression that what I have advocated is a part of some propaganda that Mr. Evans or somebody else has started. So far as I am concerned, I have not received any propaganda from anybody, and I do not know anything about any propaganda, and I am discussing this question solely upon its merits.

I made no attack upon the aliens. If I may say a personal word, my own grandfather came from across the water. I know that from these people of foreign birth have come many of our great citizens in America. They have contributed much that is fine in American civilization. I am not seeking to take any rights away from the alien. I am not seeking to take any protection of the law away from him. I am not here seeking to change his status in any way whatever, although I am in hearty sympathy with every movement which leads to the naturalization of proper people of foreign birth who are legally in this country. The only question I raise is this: Whether it is fair that a man who is foreign born and does not become naturalized should be counted to determine the number of Representatives in Congress to which that State is entitled? [Applause.]

I am still waiting for my gentle friend from Wisconsin, who seems so concerned about the aliens of his State particularly, to give me some reason why, on the merits of it, we should take from one State a Member of Congress and give four Members to the State of New York because they have 1,600,000 unnaturalized aliens in that State.

Mr. SCHAFER. I will give the gentleman a few reasons.

Mr. HOCH. All right; I will be glad to hear the gentleman.

Mr. SCHAFER. One is we would have taxation without representation; another is that we would not count these aliens, so far as reapportionment legislation is concerned, but are willing to draft them and let them fight and die in time of war; and another reason is—

Mr. HOCH. Wait a minute. Let me answer the gentleman.

Mr. SCHAFER. And another reason is that in many of these cases the aliens are not to blame because they are not citizens at the time the census is taken for apportionment purposes, because they have to be here five years before they can become naturalized.

Mr. HOCH. No; some of them can not help it; but we can help it if we do our duty in determining representation regardless of the number of aliens in a State.

The gentleman speaks about taxation without representation. Is the gentleman in favor of permitting a foreign-born citizen who does not become naturalized to vote in this country?

Mr. SCHAFER. I am not.

Mr. HOCH. Then the gentleman is in favor of taxation without representation, if his argument is correct.

Mr. SCHAFER. Oh, no; he has representation if you count him in determining the number of Representatives.

Mr. HOCH. Yes; but it is representation of somebody else's choosing. Representation means representation of one's own choosing, and not representation of somebody else's choosing. If a man comes here to live, he is entitled to all the protection our laws give him. As an alien, he is entitled to all of that, and I am not proposing to take any of it away from him. But the gentleman can not begot this issue by his talk about the Anti-Saloon League or any other organization which the gentleman seems to have so much on his mind to the exclusion of the merits of this proposition.

Mr. SCHAFER. The Anti-Saloon League and the Ku-Klux Klan have both been advocating this proposition.

Mr. HOCH. I will say to the gentleman that even if the Association for the Repeal of the Eighteenth Amendment would be for it, I would still be for it in spite of that fact.

Mr. WYANT. Will the gentleman yield?

Mr. HOCH. Yes; I yield to the gentleman.

Mr. WYANT. I am very much interested in the gentleman's discussion, and if the gentleman has investigated the matter I would like to know how the operation of his theory would affect the representation of the different States in the Congress.

Mr. HOCH. I am sorry the gentleman was not here when I spoke earlier in the day. I put in the RECORD a table furnished by the Census Bureau which shows what the representation of each State would be if we reapportioned to-day under the 1920 census by excluding the aliens. Of course, what the showing would be under the 1930 census is speculative and I have sought to confine myself solely to the known facts.

Mr. KETCHAM and Mr. BURTNESS rose.

Mr. HOCH. I yield first to the gentleman from Michigan.

Mr. KETCHAM. Has the gentleman given any thought to the question of how this would affect the interests of the alien in becoming a citizen of the United States at the earliest possible moment?

Mr. HOCH. It would encourage the State where the aliens live, if they are proper candidates for citizenship, to lead them to become American citizens, and I think even my friend from Wisconsin would be in sympathy with such a movement.

Mr. BURTNESS. Mr. Chairman, I ask unanimous consent that the time of the gentleman be extended one minute; I want to ask him a question.

The CHAIRMAN. The gentleman from North Dakota asks unanimous consent that the time of the gentleman from Kansas be extended one minute. Is there objection?

There was no objection.

Mr. BURTNESS. I am sorry I did not hear the gentleman's opening statement. Does his resolution relate to the vote in the electoral college?

Mr. HOCH. I do not touch that section directly, but only the section which provides for apportionment of representation in the House. Of course, the gentleman understands that the electoral college is determined by the number of Representatives in the House and the Senate. That adds strength to my argument that the aliens should not be included.

The CHAIRMAN. The time of the gentleman from Kansas has again expired.

Mr. DICKINSON of Iowa. Mr. Chairman, we have had quite a field day, and I hope we may now proceed with the consideration of the bill.

The Clerk read as follows:

For salaries and compensation of necessary employees in the mechanical shops and power plant of the Department of Agriculture, \$101,000.

Mr. LA GUARDIA. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the subcommittee what has been done, if anything, since the last discussion of the appropriation bill concerning the forecasting of future prices of cotton. If I remember correctly, that was quite a live subject last year. Owing to what happened through a mistake, intentional or otherwise, in the forecast of the price of cotton, I understand the entire cotton situation was disturbed. A discussion came up when the appropriation bill was before the House and it was then stated—I am speaking from memory—that there was no need of writing any proviso into the appropriation bill because the matter would be attended to by proper legislation. I would like to know whether any progress has been made along those lines, and what is being done among the cotton producers?

Mr. DICKINSON of Iowa. Legislation was passed. The law has been referred to by the gentleman from Texas [Mr. JONES]. There has been no forecast since then so far as I know. I think if there had been you would have heard of it from the other side of the House. The silence on that side answers the gentleman's question.

Mr. CRISP. Mr. Chairman, I have tried to keep posted so far as the cotton crop is concerned. There has been no statement given out by the Department of Agriculture this year that would in any way contravene the position taken on the floor of the House.

This year the cotton crop as a whole in the country is short, and prices have ranged from 18 to 19 cents. The incident referred to by the gentleman occurred last year when cotton was selling at 23 cents, and in one day the price dropped \$8 a bale. The price afterwards went back to 16 or 17 cents, but it never did get back above 18 cents.

Mr. LA GUARDIA. But the present favorable condition is due to natural causes?

Mr. CRISP. It is under the natural law of supply and demand.

Mr. JONES. Mr. Chairman, I want to state, in all fairness, that three years ago, notwithstanding the natural laws, the effect of the forecast was disastrous to the Southern cotton growers, for it cost them many millions of dollars. They did not regain the price. The department has complied in every respect with the provisions of law.

Mr. LAGUARDIA. And aided by a short crop.

Mr. JONES. I am talking about the upset of the market. As the gentleman from Georgia [Mr. CRISP] has told you, in one day when there was no increase or decrease in the condition of the crop by a simple prediction of a lower price in the future, the prices broke \$7 to \$8 a bale and did not recover for a long period of time.

Mr. RANKIN. Mr. Chairman, what the gentleman has referred to has no application to the forecast of the number of bales of cotton that the farmers are supposed to be making. The present forecast of the Department of Agriculture has been, it seems to me, very disastrous to the cotton growers. I did not want to leave the impression that we are satisfied with the present status of that situation.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Total, office of information, \$1,242,000, of which amount not to exceed \$375,000 may be expended for personal services in the District of Columbia.

Mr. HILL of Alabama. Mr. Chairman, I move to strike out the last word for the purpose of asking some questions. As I understand it, there are about 200 soil surveys that have been prepared by the Department of Agriculture which the department is now having to hold on account of the fact that it has no money with which to have them printed. Has the committee made any provision to take care of that situation?

Mr. DICKINSON of Iowa. We made some investigation in regard to that printing. There are a number of soil surveys, research items, and a number of bulletins that the department has not had sufficient funds to print under the printing allowance. They made their request for an increase to the Budget Bureau, and after hearings the Budget Bureau allowed them an increase of \$50,000. After going over the situation, the committee was impressed that they needed more money than that, and we have given them an additional \$50,000 for the year 1930, so that for that year they will have \$100,000 more money than they have had for 1929 to make an effort to catch up on that printing. After that is used the committee hopes to make a sufficient survey of the situation to be able to reach some conclusion as to what ought to be done with reference to a regular printing item. The department has done a good deal of research work. This research work always results in findings. There is no use in having research and having findings unless we can print the findings, and we are making an effort here to start along and rectify that situation.

Mr. HILL of Alabama. How much will it take to rectify the situation?

Mr. DICKINSON of Iowa. I think the original estimate was \$150,000 and possibly \$200,000 more than we have allowed them.

Mr. HILL of Alabama. And the committee has allowed them \$100,000 additional?

Mr. DICKINSON of Iowa. Yes. We have allowed them \$100,000 over and above that of last year.

Mr. KETCHAM. Mr. Chairman, will the gentleman from Iowa yield?

Mr. DICKINSON of Iowa. Yes.

Mr. KETCHAM. Will the gentleman state whether or not in the hearings there was any testimony developed as to the kind and number of those soil surveys and other matters not published?

Mr. DICKINSON of Iowa. There were three different matters that we discussed—soil survey, farm bulletins, and research findings.

Mr. KETCHAM. I am particularly interested in soil surveys.

Mr. DICKINSON of Iowa. Those are emphasized more than any other class of publication.

The Clerk read as follows:

For investigating the diseases of tuberculosis and paratuberculosis of animals, for their control and eradication, for the tuberculin testing of animals, and for researches concerning the causes of the diseases, their modes of spread, and methods of treatment and prevention, including demonstrations, the formation of organizations, and such other means as may be necessary, either independently or in cooperation with farmers, associations, or State, Territory, or county authorities, \$6,061,000, together with \$300,000 of the unexpended balance of the appropriation for this purpose for the fiscal year 1928, of which \$1,190,000 shall be set aside for administrative and operating expenses and \$5,171,000 for the payment of indemnities: *Provided, however*, That in carrying out the purpose of this appropriation, if in the opinion of the Secretary of Agriculture it shall be necessary to condemn and destroy tuberculous or paratuberculous animals, if such animals have been destroyed, condemned, or die after condemnation, he may, in his discretion, and in accordance with such rules and regulations as he may prescribe, expend in the city of Washington or elsewhere such

sums as he shall determine to be necessary, within the limitations above provided, for the payment of indemnities, for the reimbursement of owners of such animals, in cooperation with such States, Territories, counties, or municipalities, as shall by law or by suitable action in keeping with its authority in the matter, and by rules and regulations adopted and enforced in pursuance thereof, provide inspection of tuberculous or paratuberculous animals and for compensation to owners of animals so condemned, but no part of the money hereby appropriated shall be used in compensating owners of such animals except in cooperation with and supplementary to payments to be made by State, Territory, county, or municipality where condemnation of such animals shall take place, nor shall any payment be made hereunder as compensation for or on account of any such animal if at the time of inspection or test, or at the time of condemnation thereof, it shall belong to or be upon the premises of any person, firm, or corporation to which it has been sold, shipped, or delivered for the purpose of being slaughtered: *Provided further*, That out of the money hereby appropriated no payment as compensation for any animal condemned for slaughter shall exceed one-third of the difference between the appraised value of such animal and the value of the salvage thereof; that no payment hereunder shall exceed the amount paid or to be paid by the State, Territory, county, and municipality where the animal shall be condemned; that in no case shall any payment hereunder be more than \$35 for any grade animal or more than \$70 for any purebred animal, and that no payment shall be made unless the owner has complied with all lawful quarantine regulations.

Mr. DICKINSON of Iowa. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON of Iowa: Page 20, line 13, after the word "indemnities," insert "of which \$250,000 shall be immediately available: *Provided, however*, That payments from the appropriation of May 16, 1928, for this purpose for animals condemned after date of the approval of this act shall be upon the same basis as hereinafter provided."

Mr. McLAUGHLIN. Mr. Chairman, I reserve the point of order against the amendment.

Mr. DICKINSON of Iowa. Mr. Chairman, the purpose of this amendment is to make the higher compensation rates available at an earlier date. There will be a time when we must reach a period when we are going to start the new compensation and pay the higher rate of condemnation. The program for eradication of this disease starts usually in the spring. It seems a little unfair to have most of those who are in on the spring test compelled to accept compensation for their condemned cattle at a lower rate, so, after taking up the matter with the department, I offer this amendment upon the theory that the compensation for the year will be upon the same rate throughout the entire year, and will be equitable to all of those concerned in the test. I think it should be done.

Mr. McLAUGHLIN. Mr. Chairman, I move to strike out the last word, and reserve the point of order on the paragraph on page 21.

The CHAIRMAN. Is the point of order on the amendment offered by the gentleman from Iowa or to some part of the bill as read?

Mr. DICKINSON of Iowa. Mr. Chairman, the gentleman is too late with his point of order upon the entire paragraph, because that has been read. The point of order was made on the amendment.

Mr. McLAUGHLIN. I made the point of order on the amendment, and that is what the gentleman discussed. My point of order still stands.

The CHAIRMAN. The gentleman is correct. He made the point of order on the amendment.

Mr. McLAUGHLIN. My point of order on that still stands. There has been no discussion of the paragraph on page 21. I made the point of order properly at the proper time upon that also, although I am not going to insist upon it. I have made it more for the purpose of getting the floor to make some inquiries as to how this work is progressing. The work was begun pursuant to legislation enacted when I was a member of the Committee on Agriculture—a very important work. It has, I believe, been well done and with highly satisfactory results.

I notice the bill proposes to amend the amount of indemnity to be paid for animals destroyed. The amounts carried in the law which passed several years ago were \$25 for a grade and \$40 for a purebred animal. I always thought that those amounts were much too low, but they were all we could obtain approval of at the time the law was enacted.

I should favor even larger increases of amounts now provided by law than the committee has here recommended. As I understand, the department itself, the chief of the bureau and the others whose duty it is to carry on this work have recom-

mended larger increases than the committee has been willing to put into the bill. Why did the committee refuse the recommendation of the bureau as to these amounts?

Mr. DICKINSON of Iowa. We have been carrying along this work for many years on a 25-50 basis. Cattle have been getting dearer, but in equity to those who have gone through the test heretofore we thought if we gave 40 per cent increase we were giving an increase which was equitable, and for that reason we gave an increase from \$25 to \$35 and from \$50 to \$70. It is my recollection the department recommended an increase of from \$25 to \$40 and from \$40 to \$80, 50 per cent.

We did not want to get this amount to a point where people would be eager to sell cattle to the department for the amount they got for condemnation.

Mr. McLAUGHLIN. As a matter of fact, one serious difficulty in the administration of this law has been that the amount available for payment for the destruction of a purebred animal is too small. The bureau recommend \$80, and the committee recommends \$70. Certainly \$80 is not an excessive amount. As I have said, the greatest difficulty, or one of the serious difficulties in enforcing this law, is the small amount paid for the destruction of purebred animals, some of which are of great value, running into thousands of dollars, the actual market value of the animals. It seems to me the amount to be paid should be still higher. I make that suggestion; I do not know that I shall offer an amendment.

Mr. DICKINSON of Iowa. We went over that very carefully and I think we have done the equitable thing.

Mr. McLAUGHLIN. Another question I wish to ask in regard to this work is whether or not there is any occasion for the feeling or opinion that while the test applied is effective generally in determining whether or not an animal is affected with tuberculosis, in many cases the worse the animal is, the more general, deep-seated the infection is, the less likely the test is to be successful. It often happens, I am told, that where an animal, determined by the test to be free of tuberculosis, is slaughtered soon after the test has been applied it is actually found to be seriously affected. That is, whereas there is little, if any, difficulty in discovering the presence of the disease where the animal is slightly affected, the test is, in fact, not a test, because it fails to disclose the presence of the disease if the animal is seriously affected. What are the facts? Is there reason or foundation for that opinion?

Mr. WASON. There is. I can answer that because I have had experience in my own herd. And the reason why the test is not effective in an animal which is very seriously diseased is that the resistance of the disease in the animal overcomes the fluid they use to make the test.

Mr. McLAUGHLIN. In other words, the worse off the animal is the more resistance it has?

Mr. WASON. Absolutely; against this fluid. I have had this happen in my own herd.

Mr. McLAUGHLIN. Is the bureau making any progress in finding a test that will not be, we may say, defective or ineffective in that respect?

Mr. WASON. They are working over it, but I do not think they have got it perfected along that line.

Mr. McLAUGHLIN. They admit there is that trouble?

Mr. WASON. Oh, of course, but there are only two animals in many years in my own herd who turned out that way.

Mr. McLAUGHLIN. How general is that condition?

Mr. WASON. Very slight as compared with the number of animals tested.

Mr. McLAUGHLIN. I am pleased to know that the work is going along so nicely. When it was first suggested we were told it would be impossible to eradicate tuberculosis, to check its spread, or even materially to reduce it. Officials of the bureau insisted it could be done, and from the first appropriation under the law the bureau has done splendid work and has made splendid progress.

Mr. WASON. They are doing so in my part of the country.

Mr. McLAUGHLIN. I withdraw the reservation of the point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken, and the amendment was agreed to.

Mr. DICKINSON of Iowa. Mr. Chairman, I think there is a second amendment there, to carry out the same purpose.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKINSON of Iowa: Page 20, line 13, strike out the word "however" and insert the word "further."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Total, Bureau of Dairy Industry, \$649,800, of which amount not to exceed \$302,000 may be expended for personal services in the District of Columbia.

Mr. DICKINSON of Iowa. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. TILSON as Speaker pro tempore having assumed the chair, Mr. TREADWAY, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 15386) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1930, and for other purposes, had come to no resolution thereon.

TEACHING THE CONSTITUTION

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to extend my remarks on the subject of teaching the Constitution of the United States and to insert in connection therewith 10 specimen questions and answers that have resulted from this method that I have discussed.

The SPEAKER pro tempore. The gentleman from South Carolina asks unanimous consent to extend his remarks in the RECORD in the manner indicated by him. Is there objection?

There was no objection.

Mr. McSWAIN. Mr. Speaker, the American people have a deep-seated veneration for our Federal Constitution. We have wisely been taught that it is the sheet anchor of our civilization. But, unfortunately, it is a blind sort of worship among nearly all of our people. We have assumed that nobody could understand the Constitution except a few great lawyers and the Supreme Court. Especially was this view enhanced by the fact that so often the Supreme Court itself was divided by five to four opinions upon the proper interpretation of the Constitution. It occurred to our people that if the learned judges, having given the larger part of a lifetime to the study of the Constitution, could not agree among themselves as to its proper meaning, then it would be futile for a mere layman to commence its study.

But, on the contrary, we have courses in our schools, high schools, and colleges including the study of the Constitution itself. Having tried to teach the Constitution and having failed to satisfy myself with any success, I set about, many years ago, to devise a manner of approach to the study of the Constitution, and a method of instruction, that would make it both interesting and understandable. Accordingly, I was greatly pleased with the opportunity to try out my experiment with one of the law classes at Furman University, at Greenville, S. C., during the months of September, October, and November, 1928. I did not begin the course by a direct study of the text of the Constitution because that is dry and fruitless without the proper foundation of comparative history. I sought to catch the spirit of our Constitution and especially of our constitutional system by a brief review of the systems of Government then prevailing in the leading civilized nations of the world; and especially in England herself. This entailed a hasty review of the rise and development of the British constitutional system as it existed in 1776. Add to that the fact that feudal absolutism still prevailed in France, Germany, and Spain, and that what we now know as civil liberty and self-government were found only in the Swiss Cantons and in a nascent form in England herself, and we have the picture set for a proper appreciation of the shock that the Declaration of Independence must have given to the nerves of the smug and self-complacent aristocrats of that day. With this framework, all of us can understand, easily, the innovations contemplated by the Declaration of Independence. We are now prepared to understand that the American Revolution was a conflict of ideas of democracy and autocracy just as the World War was. The ideals of popular government having prevailed and finally triumphed at Yorktown, with the later acknowledgment of independence of the 13 American States, it became necessary for the revolutionary fathers to make democracy safe in and for America. If democracy should then show her efficiency and her power to maintain and advance civilization, then she might, 140 years later, proclaim and extend her power to make the whole world safe for democracy.

Therefore John Fiske truly described the period commencing with the end of the Revolution and culminating with the formulation and adoption of the Federal Constitution as the "critical period of American history." Therefore it was necessary to study this period of about seven or eight years with great particularity. The lack of power in the Federal Government,

seeking to function under the Articles of the Confederation, to defend our frontiers, to maintain domestic tranquility, to provide for the common defense, to prevent conflicts between the several States, to raise money by taxation, and soldiers by draft, all explain the confusion and chaos that clear-headed patriots saw were about to obscure and, perhaps, destroy the bright hopes of those who believed in, and fought to make good, the Declaration of Independence. Especially did we study the reasons and motives calling for the great convention that finally met in Philadelphia in May, 1787. We followed, minutely, the deliberations of that convention. We saw the conflict of ideas between the extreme views voiced by Alexander Hamilton, on the one hand, and Luther Martin, on the other hand. We traced the collision of interests between the large States and the small States. We observed the first threatening murmurs of sectional strife that grew until they finally thundered in the struggle over secession and eventually died away at Appomattox. Especially did we note the groping for, the difficulty in arriving at, what is now universally conceded to be the triumphant marvel of our American constitutional system, to wit, a dual system of government, both operating directly upon the same population at the same time, each within a separate and distinct sphere, and each maintained in the exercise of its proper powers by that wonderful regulatory agency, the balance wheel of our whole system—the Supreme Court of the United States.

Thus, Mr. Speaker, we have the material at hand for the proper comprehension of our Federal Constitution. Thus are we enabled to grasp the spirit of our Constitution. Thus we clothe the mere skeleton of dry-as-dust language with flesh and nerves, and breathe into this body the breath of governmental life. We behold a new beauty in the Constitution. We realize as never before why the Nation has grown in territory, in population, in wealth and in power, having multiplied itself in these respects many times, and yet the Constitution fits each new phase of our development. There is nothing like it elsewhere in the world. It is rigid enough to maintain order and historic continuity. It is elastic enough to permit of orderly progress. Through the provisions for amendment it is capable of expansion or contraction, and justifies the hope that it shall continue to bless countless generations of the American people; and, through them, the other peoples of the world.

Below follows a specimen of the questions and answers of an examination held on November 27, 1928. This is the paper of Mr. Hugh Beasley:

1. Question. Contrast the political ideas promulgated by the Declaration of Independence with those prevailing generally throughout the world.

1. Answer. The political ideas advanced by the Declaration of Independence were far ahead of the political ideas of the rest of the world at that time, and in some cases were in direct opposition to them. The idea as expressed by the Declaration of Independence that in order for a people to be taxed, they must have a share in the Government doing the taxing was very novel. Previous to this time in English history, the power to raise money had passed from the King to the Parliament, but no territory or colony had questioned the right of Parliament to levy taxes, because it had no representation.

Another idea advanced was "that all men are created equal." This may be taken to mean socially and politically. Who had ever heard of the idea that one man, no matter how low his station in life, had equal rights before the courts or in casting his ballot, as any other man in the community, no matter how prominent?

The proposition was also put forth that the people have the right to abolish any government that interferes with certain inalienable rights. This was contrary to the idea that prevailed at that time throughout the rest of the civilized world. However, many nations had successfully overthrown the rule of a certain king or dynasty, but not for a principle as was done in this case.

2. Question. Explain fully the expression "constitutional morality" and give some arguments for and against a written constitution as contrasted with an unwritten constitution?

2. Answer. The essence of "constitutional morality" is a spirit of self-restraint which enables men to lay aside their passions, prejudices, momentary interests, and other things which at the time seem necessary, but which is against the fundamental higher law, which is supreme. Thus "constitutional morality" may mean, following strictly the fundamental law as expressed in the constitution, and letting it be a gage and fountain head, and also a restraint on all laws which might be offered after that time.

The advantages of a written constitution over an unwritten one may be compared to the advantages of a contract which has been reduced to writing over one which has been agreed upon orally. The unwritten one is more flexible and more likely to be changed to fit the idea of the people at the time. The written constitution is like a monument. A certain formality of proceedings has to be carried through before it can be changed. Before this proceeding may be carried through and the

constitution changed, the people have had time to think it over, and thus there is less likelihood that a mistake will be made. An unwritten constitution will be changed whenever the people, or practically speaking the lawmakers, feel that it stands in the way of legislation needed at the moment. Thus it is something intangible. Unless the people are very conservative, it might be as well not to have any constitution, as to have it in unwritten form.

The written constitution stands out like a landmark. It is not necessary for anyone to be skilled in civics or law in order to get a general idea about it. On the other hand, the unwritten constitution is vague and indefinite. It is more subject to change. The English nation probably use the unwritten constitution with as much efficiency as they would were it reduced to writing. But, as I have mentioned, they are conservative, and what would suit them would not suit us. We are composed of a mixture of races, and by nature we are more progressive, straining at the leash more than the English. Our citizenship is composed of people to a large extent who are not more than one or two generations removed from their native country. Thus they have not had the opportunity to have grounded in them the traditions of the Government of this country as the average English citizen has had. Government in England is more of a profession than it is in this country. They go about preparing for public office like we go about preparing for a profession, and in a lot of cases more seriously and thoroughly.

3. Question. Explain the term "American Constitution" and contrast with the Federal Constitution.

3. Answer. By the term "American Constitution" we mean the fundamental ideas of government as expressed in the Federal and in the State Constitutions combined. Of course most of the State constitutions are modeled after the Federal, but they usually go more into detail. They do not conflict with the Federal Constitution in any way. The Federal Constitution is only a part of the American Constitution, but it is the model for all of them. It is the expression of a higher law. As mentioned somewhere in our course, it is the link which pledges the living to the dead and to the unborn.

4. Question. Explain fully the weak features of the Articles of Confederation, and why we were inadequate to insure life, liberty, and the pursuit of happiness.

4. Answer. The weak features of the Articles of Confederation may be mentioned under two heads:

1. The inability of the Federal Government to reach out and take men from its citizenship when needed. The central government could only ask the States to send so many men, but it couldn't reach out personally to each man and in effect say, "You are needed for the defense of your country; come!" If the States chose to they could send the men, but if they did not choose to there was no way to force them. For a government to exist it must have men and money.

2. The inability of the Federal Government to levy taxes upon its citizenship. As in the case of men all the central government could do was to ask the States for so much money. Thus the State, if it chose to, might levy a tax upon its citizenship and raise the revenue. The whole defect may be summed up in a few words. The citizen owed allegiance first to the State and then to the Federal or central Government. Under our present system the citizen owes allegiance to both the Federal and the State Government, and where there is a conflict the Federal Government prevails. Under the Articles of Confederation, the central government had power, but only as expressed through the State, and then only as the State chose to obey. It was more like the League of Nations of to-day. Each State was an independent sovereign and might do anything unrestrained, only as the other States might step in individually and restrain her.

5. Question. Explain the conflicting views and interests of groups in the Convention of 1787 in Philadelphia, and how they were finally compromised.

5. Answer. The two main groups in the convention were the Federalists and the State Rights Party. The first plan submitted was the Virginia plan, closely followed by the Pinckney plan, which was the model for the future Federal Government. However, the Virginia plan was considered first. One of its features which brought on a battle royal proposed that "the rights of suffrage in the National Legislature ought to be apportioned to the number of free inhabitants." This was opposed by the smaller States, notably Delaware and Rhode Island, on the ground that the smaller States would be swallowed up. This was compromised in the latter part of the convention by providing that the number of Members in the Lower House should be determined by population of their respective States, but that each State, no matter how large nor how small, should have two representatives in the Upper House, or the Senate. The business men of the convention wanted a strong central government, because it could protect business interests at home and abroad. Other men of the same type which promulgated the Declaration of Independence wanted an ideal government which would let each State have absolute power and the central government subordinate to the States. Fortunately, men of this type were few in the convention.

6. Question. Point out the novel and original feature of the Constitution of the United States.

6. Answer. The novel features of the Constitution may be expressed in a few subheads:

1. The proposition that the right of the Government depends upon the will of those who are governed, and those who are governed have the right to change the form of government which is over them.

2. The proposition that every man has the same rights before the law. Thus the social or financial position of a man, theoretically speaking, is not of help to a man when he comes into a court.

3. The proposition that law shall be general and shall not favor a particular class.

4. The proposition that, in case of a suit, reasonable notice shall be given and a reasonable time given to defend in a fair court of law. This is known as the "due process clause."

5. The dual system of government, whereby each man owes direct allegiance to both the State and the Federal Governments.

6. The system of "checks and balances," whereby one department of the Government is set off against another. Thus the judiciary restrains the legislative, and executive, and vice versa. Each is dependent upon the other for its power.

7. The agreement that the will of the majority shall prevail. Thus, when the majority elect a President, the minority concur in the election, and instead of the President being the President of the majority he is the President of all.

8. The right of every person to have individual freedom. That is, that he shall have the right to advance according to his ability, and not according to who he is.

Probably the most novel feature of the Constitution is the provision made for a dual form of government. There are in reality two governments governing the same people in the same territory harmoniously together. I owe one allegiance to the Federal Government and another allegiance to my State government. Both may put their hands into my pocket for taxes. Both may call me to their defense. In case of a conflict, it is agreed that the call of the Federal Government shall prevail. The Federal Government is concerned mostly with questions of national importance, while the State government deals only with local matters, relatively speaking.

7. Question. Show what part of the United States Constitution embodies the spirit of the Declaration of Independence, the "most American feature," and why.

7. Answer. Articles I, II, and V of the Constitution most embody the spirit of the Declaration of Independence. Article I provides that all legislative powers shall be vested in a Congress, which shall consist of the two respective Houses. It provides the manner of electing them and what their duties shall consist of. This section provides in effect that government shall be by the people. This carries out the thought embodied in the first part of the Declaration of Independence that the people must have a share in the government over them.

Article II provides for the office of President and how he shall be elected and removed if the people care to do so. This section in effect provides the manner in which all civil officers of the United States may be removed from office upon certain causes.

Article V expresses the idea which pervades the Declaration of Independence; that is, the power of the people to change the government which is over them. Thus provision is made for the alteration or for amending the Constitution of the United States. The Declaration of Independence expresses the idea that the people shall have the power at any time to change their government.

Of course, the first 10 articles of the Constitution are usually called the Bill of Rights, and they enlarge upon the thought expressed in the Declaration of Independence.

8. Question. Compare in detail the plan proposed by Alexander Hamilton and that adopted by the convention.

8. Answer. Alexander Hamilton's plan was to have a legislature composed of two branches, which is like the present system. The lower branch, called the assembly, was to consist of persons elected for three years as against two years at the present time. The Senate was to compare to the House of Lords of England and be elected for an indefinite term of office by electors chosen by the people for that purpose. The plan adopted by the convention proposed that the Senators should be elected for a term of six years, and then by the legislature of the State which are represented by them. The supreme executive authority of the Nation was to be vested in a governor chosen for life and to be elected by electors. The system adopted by the Constitutional Convention provided that the President should be elected by electors chosen for that purpose, for a term of four years. Washington established the precedent that no man should run for the office and be elected more than two terms. The judicial system was about the same as actually adopted which provided that it should be vested in judges who would serve for life. But the important difference in the Hamilton plan was that he provided for the appointment of the governor of each State by the General Government. Both the President and governor of each State was to have the negative on the laws passed by the respective legislatures of the Nation and the State. Under the system adopted by the convention the Executive had the veto power but the legislature could override the veto.

9. Question. Explain fully the powers, purposes, and services of the Supreme Court as the balance wheel.

9. Answer. The judges of the Supreme Court are elected for life, and they hold their office during good behavior. Thus they are not mixed up in politics, and they are free to decide questions as their sense and conscience may dictate. The Supreme Court has the power to declare any statute passed by Congress or by any State legislature as unconstitutional and of no effect. They do not nullify the statute but disregard it. Thus it has the power to check legislatures, and it checks the powers of the Executive by interpreting the laws as passed by the legislature. The Supreme Court may be called the measuring rod of the Nation. They take a law or act which has been passed and see if it comes up to the standard as set forth by the Constitution or decide whether it is against the standard.

10. Question. Explain fully the reasons for the tendencies toward enlarging Federal powers, and give examples and evidence of such enlarging tendencies.

10. Answer. Transportation and commerce has made large and important strides and advances within the past century. Communication has likewise progressed. Thus the people of the country are having the same interests in common, and they more nearly live the same kind of lives. The same kind of cars are driven in California and the same styles are worn there as are worn in the far Eastern or Southern States. The same kind of people live there. They think about the same things that we do. The people of South Carolina and those of California or Washington State are more nearly alike and have more things in common now than did the people of the upper and lower sections of South Carolina at the time of the adoption of the Constitution. Thus State lines are gradually being erased except as political boundaries. It is but natural that the Federal Government should enlarge and expand its authority. The people are living closer together and have the same interests in common. Due to the large volume of interstate travel, commerce, and communication, it is but natural that this trend should prevail. Very few things are done in one State at the present day that do not affect the people in another State.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H. J. Res. 346. Joint resolution authorizing the payment of salaries of the officers and employees of Congress for December, 1928, on the 20th day of that month.

ADJOURNMENT

Mr. DICKINSON of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 25 minutes p. m.) the House adjourned until Monday, December 17, 1928, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Monday, December 17, 1928, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

War Department appropriation bill.

COMMITTEE ON AGRICULTURE

(10 a. m.)

To amend the packers and stockyards act, 1921 (H. R. 13596).

COMMITTEE ON INDIAN AFFAIRS

(10.30 a. m.)

A meeting of the subcommittee to consider a bill for the relief of J. F. McMurray (H. R. 10741).

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

687. A communication from the President of the United States, transmitting supplemental estimate of appropriations for the Treasury Department for the fiscal year 1929, pertaining to the Bureau of the Mint, \$6,780 (H. Doc. No. 477); to the Committee on Appropriations and ordered to be printed.

688. A letter from the Secretary of War, transmitting letter from the Chief of Ordnance, United States Army, dated the 14th instant, covering statement of the cost of manufacture, for the fiscal year ended June 30, 1928, at the armory and arsenals therein named; to the Committee on Expenditures in the Executive Departments.

689. A communication from the President of the United States, transmitting deficiency estimates of appropriations for the Post Office Department for the fiscal years 1927 and prior years (H. Doc. No. 478); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. KIESS: Committee on Insular Affairs. H. J. Res. 352. A joint resolution for the relief of Porto Rico; without amendment (Rept. No. 1957). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COLE of Maryland: A bill (H. R. 15425) authorizing Cornelius V. Roe, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Patapsco River at or near or south of Lazaretto Point, Baltimore, Md., and a point opposite thereto in Baltimore, Md.; to the Committee on Interstate and Foreign Commerce.

By Mr. McKEOWN: A bill (H. R. 15426) prohibiting the transportation of intoxicating liquors with firearms or explosives, and the sale of intoxicating liquors to minors, and for other purposes; to the Committee on the Judiciary.

By Mr. BULWINKLE: A bill (H. R. 15427) authorizing and directing the Secretary of War to lend to the Governor of North Carolina 300 pyramidal tents, complete; 9,000 blankets, olive drab, No. 4; 5,000 pillowcases; 5,000 canvas cots; 5,000 cotton pillows; 5,000 bed sacks; and 9,000 bed sheets, to be used at the encampment of the United Confederate Veterans to be held at Charlotte, N. C., in June, 1929; to the Committee on Military Affairs.

By Mr. GRIFFIN: A bill (H. R. 15428) allowing the withdrawal of the proceeds of the salvage of the U. S. S. *Piave*, improperly covered into "Miscellaneous receipts" in the United States Treasury instead of being paid to the underwriters of the cargo of said ship; to the Committee on Claims.

By Mrs. KAHN: A bill (H. R. 15429) to provide a suburban residence for the President of the United States; to the Committee on Public Buildings and Grounds.

By Mr. WHITE of Maine: A bill (H. R. 15430) continuing the powers and authority of the Federal Radio Commission under the radio act of 1927, and for other purposes; to the Committee on the Merchant Marine and Fisheries.

By Mr. DAVILA: Joint resolution (H. J. Res. 354) authorizing the appropriation of the sum of \$871,655 as the contribution of the United States toward the Christopher Columbus Memorial Lighthouse at Santo Domingo; to the Committee on Foreign Affairs.

By Mr. COLE of Iowa: Joint resolution (H. J. Res. 355) authorizing the appropriation of the sum of \$50,000 to enable the Secretary of State to cooperate with the several Governments members of the Pan American Union in the undertaking of financing and building an inter-American highway or highways; to the Committee on Foreign Affairs.

By Mr. LEHLBACH: Resolution (H. Res. 265) to amend House Resolution 232; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ZIHLMAN: A bill (H. R. 15431) to protect the title of motor vehicles within the District of Columbia; to provide for the issuance of certificates of title and evidence of registration thereof; to regulate purchase and sale or other transfer of ownership; to facilitate the recovery of motor vehicles stolen or otherwise unlawfully taken; to provide for the regulation and licensing of certain dealers in used and secondhand vehicles as herein defined; to prescribe the powers and duties of the director of traffic hereunder; and to provide penalties for violations of the provisions hereof; to the Committee on the District of Columbia.

By Mr. ARNOLD: A bill (H. R. 15432) granting an increase of pension to Rosa A. Bower; to the Committee on Invalid Pensions.

By Mr. BACHMANN: A bill (H. R. 15433) granting an increase of pension to Kate Thomas; to the Committee on Pensions.

By Mr. BULWINKLE: A bill (H. R. 15434) granting an increase of pension to Synthia Freeman; to the Committee on Invalid Pensions.

By Mr. EDWARDS: A bill (H. R. 15435) granting a pension to Julius P. Martin; to the Committee on Pensions.

By Mr. ELLIOTT: A bill (H. R. 15436) granting a pension to Almira M. Mitchell; to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 15437) granting a pension to Roscoe Morrow; to the Committee on Pensions.

Also, a bill (H. R. 15438) granting a pension to Horace Stephens; to the Committee on Pensions.

By Mr. KEARNS: A bill (H. R. 15439) granting a pension to Mary Lawson; to the Committee on Invalid Pensions.

By Mr. LEAVITT: A bill (H. R. 15440) for the relief of Frank Yarlott; to the Committee on Indian Affairs.

By Mr. LEECH: A bill (H. R. 15441) for the relief of Isabelle Moody; to the Committee on Military Affairs.

Also, a bill (H. R. 15442) granting a pension to Eviline Williams; to the Committee on Invalid Pensions.

By Mr. LOZIER: A bill (H. R. 15443) granting an increase of pension to Isaac N. Cook; to the Committee on Invalid Pensions.

By Mr. McSWEENEY: A bill (H. R. 15444) granting a pension to John G. Hall; to the Committee on Invalid Pensions.

By Mr. MONTAGUE: A bill (H. R. 15445) granting a pension to Alfred Ernest Watts; to the Committee on Pensions.

Also, a bill (H. R. 15446) for the relief of Carl Halla; to the Committee on Claims.

By Mr. ROWBOTTOM: A bill (H. R. 15447) granting an increase of pension to Mary E. Guden; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 15448) granting a pension to Frankie A. Willis; to the Committee on Invalid Pensions.

By Mr. STALKER: A bill (H. R. 15449) for the relief of Joel Townsend; to the Committee on Military Affairs.

By Mr. SWING: A bill (H. R. 15450) granting an increase of pension to Walter C. Burris; to the Committee on Pensions.

By Mr. UPDIKE: A bill (H. R. 15451) granting an increase of pension to John J. Lillis; to the Committee on Pensions.

By Mr. VESTAL: A bill (H. R. 15452) granting a pension to Mary E. Brock; to the Committee on Invalid Pensions.

By Mr. VINCENT of Michigan: A bill (H. R. 15453) granting an increase of pension to Sarah A. Baker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15454) granting an increase of pension to Nellie Thompson; to the Committee on Invalid Pensions.

By Mr. VINSON of Georgia: A bill (H. R. 15455) granting a pension to Louise Wing; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15456) granting an increase of pension to Clark Brown; to the Committee on Pensions.

By Mr. WELSH of Pennsylvania: A bill (H. R. 15457) granting a pension to Caroline W. Hayes; to the Committee on Pensions.

Also, a bill (H. R. 15458) granting a pension to James A. Quinn; to the Committee on Pensions.

Also, a bill (H. R. 15459) granting a pension to Mary E. Schmidt; to the Committee on Pensions.

Also, a bill (H. R. 15460) granting a pension to Eugene J. Hatterer; to the Committee on Pensions.

Also, a bill (H. R. 15461) granting a pension to Elizabeth B. Hertzler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15462) granting a pension to Louemma Scott; to the Committee on Invalid Pensions.

Also, a bill (H. R. 15463) granting an increase of pension to Emma B. Fleming; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

8006. By Mr. ADKINS: Petition of residents of the city of Decatur, Ill., asking for a protective tariff on brick being manufactured in Europe and shipped to our eastern seaboard; to the Committee on Ways and Means.

8007. By Mr. CRAWL: Petition of the Department of California, United Veterans of the Republic, favoring necessary legislation granting to recipients of the congressional medal of honor an honorarium of \$50 per month; to the Committee on Military Affairs.

8008. By Mr. GARBER: Petition of the Immigration Study Commission, urging opposition to repeal of the national origins clause of the immigration quota act; to the Committee on Immigration and Naturalization.

8009. By Mr. JOHNSON of Texas: Petition of W. P. Allen, president of the American National Bank, of Terrell, Tex., urging continuance of national-bank circulation; to the Committee on Banking and Currency.

8010. By Mr. McCORMACK: Petition of Boston League of Women Voters, Mrs. Willard Dana Woodbury, president, 3

Joy Street, Boston, Mass., recommending passage of the Newton bill, which provides for the creation of a child welfare extension service in the Children's Bureau; to the Committee on Education.

8011. By Mr. YATES: Petition of Le Seure Bros., jobbers and retailers of cigars and tobaccos, Danville, Ohio, protesting Senate bill 2751; to the Committee on Ways and Means.

8012. Also, petition of H. M. Voorhis, of the law offices of Maguire & Voorhis, of Orlando, Fla., urging passage of the Sears bill (H. R. 10270); to the Committee on the Judiciary.

8013. Also, petition of W. T. Alden, of the law offices of Alden, Latham & Young, Chicago, Ill., urging passage of Senate bill 3623, amending section 204 of the transportation act of 1920; to the Committee on Interstate and Foreign Commerce.

8014. Also, petition of the legislative committee of the Railway Mail Association, Illinois Branch, Chicago, urging passage of the following bills: The retirement bill (S. 1727), the 44-hour week bill (S. 3281), and the steel car bill (S. 2107); to the Committee on the Civil Service.

8015. Also, petition of office of the Quartermaster, First Cavalry Division, Fort Bliss, Tex., urging support of the Black bill in the Senate and the Wainwright-McSwain bill in the House; to the Committee on Military Affairs.

SENATE

MONDAY, December 17, 1928

The Chaplain, Rev. Z. Barney T. Phillips, D. D., offered the following prayer:

O Thou whose word, hidden in the framework of the world, is revealed in the mind of man, speak to us in loving accents as we keep our solemn tryst with Thee.

We thank Thee for the dimmest consciousness of Thy presence; for the trail of a seamless robe about us, the burning of our hearts, the whisper in our minds; but do Thou pour Thy glory forth, that we may see the majesty of our daily path crowded with helpfulness and broadened with opportunity until it becomes a highway through the desert; and may every heart that watches with us see the Sun of Righteousness arise with healing in His wings for all the nations of the earth. Grant this for the sake of Him who is our peace, Jesus Christ our Lord. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CALL OF THE ROLL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fletcher	La Follette	Simmons
Barkley	Frazier	Larrazolo	Smith
Bayard	George	McKellar	Smoot
Bingham	Gerry	McLean	Steak
Blaine	Gillett	McNary	Steiwer
Blease	Glass	Moses	Stephens
Borah	Glenn	Neely	Swanson
Bratton	Goff	Norris	Thomas, Idaho
Brookhart	Greene	Nye	Thomas, Okla.
Bruce	Hale	Oddie	Trammell
Burton	Harris	Phipps	Tydings
Capper	Harrison	Pine	Vandenberg
Caraway	Hastings	Ransdell	Walsh, Mass.
Couzens	Hawes	Reed, Mo.	Walsh, Mont.
Curtis	Hayden	Reed, Pa.	Warren
Dale	Heflin	Robinson, Ind.	Waterman
Deneen	Johnson	Sackett	Watson
Dill	Jones	Schall	Wheeler
Edge	Kendrick	Sheppard	
Edwards	Keyes	Shipstead	
Fess	King	Shortridge	

Mr. GERRY. I desire to announce that my colleague the junior Senator from Rhode Island [Mr. METCALF] is absent on account of illness.

I wish also to state that the senior Senator from New York [Mr. COPELAND] is absent by reason of illness in his family.

Mr. SHEPPARD. I wish to announce that my colleague [Mr. MAYFIELD] is detained from the Senate on account of illness.

Mr. NORRIS. I desire to announce that my colleague the junior Senator from Nebraska [Mr. HOWELL] is detained from the Senate by illness.

Mr. HEFLIN. I desire to announce that my colleague the junior Senator from Alabama [Mr. BLACK] is absent from the Senate attending, as a member of the committee on the part of

the Senate, the unveiling of the Wright Brothers Monument at Kitty Hawk, N. C.

The VICE PRESIDENT. Eighty-one Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hattigan, one of its clerks, announced that the Speaker had affixed his signature to the enrolled bill (H. R. 13990) to authorize the President to present the distinguished flying cross to Orville Wright, and to Wilbur Wright, deceased, and it was signed by the Vice President.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a petition of sundry citizens of St. Petersburg, Fla., praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which was referred to the Committee on Foreign Relations.

He also laid before the Senate a resolution adopted by the Rotary Club, of Fargo, N. Dak., favoring the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which was referred to the Committee on Foreign Relations.

Mr. FLETCHER. Mr. President, I present a communication from the manager of the Chamber of Commerce of Titusville, Fla., with some resolutions adopted by Titusville Post, No. 1, of the American Legion. I request that the resolutions may be printed in the RECORD and lie on the table.

There being no objection, the resolutions were ordered to lie on the table and to be printed in the RECORD, as follows:

Resolutions adopted by Titusville Post, No. 1, Department of Florida, of the American Legion

Whereas there is pending in the United States Senate a bill providing for increase in the strength of the Navy, authorizing the construction of 15 cruisers and 1 aircraft carrier (H. R. 11526); and

Whereas the President of the United States has declared that the measure should be passed in order to eliminate a deficiency in the Navy and to meet our needs for defense; and

Whereas the American Legion has repeatedly declared in favor of adequate preparation in time of peace for ample protection should war arise: Therefore be it

Resolved by Titusville Post, No. 1, Department of Florida of the American Legion, That the speedy passage of the measure by the Senate and its enactment into law will subserve the best interest of the Nation and give notice to the world that a "Navy second to none" is America's interpretation of the 5-5-3 ratio decided upon at the Washington Conference. Be it further

Resolved, That a copy of this resolution be forwarded to the Senators and Representatives in Congress from Florida and to the headquarters of the Department of Florida of the Legion at Palatka.

R. E. L. NIEL,
J. W. HANSON,
IRA NOBLES,

Committee.

This is to certify that the foregoing is a true and correct copy of a resolution unanimously adopted by Titusville Post, No. 1, Department of Florida, the American Legion, at its regular meeting held December 12, 1928.

THOS. E. APPLE, Commander.
CHAS. I. GUINN, Adjutant.

Mr. SHEPPARD presented a petition of members of the Tyler Street Methodist Church, of Dallas, Tex., praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which was referred to the Committee on Foreign Relations.

Mr. SIMMONS presented a petition of members of the Young Men's Christian Association, of Durham, N. C., praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which was referred to the Committee on Foreign Relations.

Mr. BARKLEY presented petitions numerous signed by students of Asbury College, members of the Young Women's Christian Association Bible Classes, of Louisville, and sundry citizens, all in the State of Kentucky, praying for the prompt passage of the so-called Kellogg multilateral treaty for the renunciation of war, which were referred to the Committee on Foreign Relations.

Mr. JONES presented petitions of sundry citizens of Seattle, Spokane, Tacoma, Port Angeles, Leland, Dungeness, Carlsborg, Raymond, Yakima, and Colville, all in the State of Washington, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were referred to the Committee on Foreign Relations.